CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI
WEST ZONAL BENCH

EXCISE APPEAL No.85786 OF 2013

[Arising out of Order-in-Appeal No.BC/398/BEL/2012-13 dated 21.12.2012 passed by the Commissioner of Central Excise(Appeals), Mumbai-III, 5th Floor, CGO Complex, CBD Belapur, Navi Mumbai-400614]

SAVITA OIL TECHNOLOGIES LTD
17/17A, TTC Industrial Area, MIDC,
Thane-Belapur Road, Navi Mumbai0400703, **Appellant**

Vs.

COMMISSIONER OF CGST & AND CENTRAL EXCISE- BELAPUR **Respondent**
1st Floor, CGO Complex, CBD Belapur,
Navi Mumbai-400614

Appearance:
Present for the Appellant: Shri Mehul Jivani, Advocate
Present for the Respondent:Shri C.Vinod (AR)

CORAM:
HON'BLE MR. AJAY SHARMA, MEMBER (JUDICIAL)

FINAL ORDER NO.85867/2025

Date of Hearing: 18.12.2024

Date of Decision:05.06.2025

PER:AJAY SHARMA

This appeal has been filed assailing the impugned Order-in-Appeal dated 21.11.2012 passed by the Commissioner (Appeals) whereby the appeal preferred by the appellant was rejected and the Order-in-Original dated 18.6.2012 passed by Assistant Commissioner, Central Excise, Belapur-II DN was upheld.

2. The issue involved herein is whether the rebate sanctioned in favour of the appellant can be appropriated towards interest due from the appellants?

3. During the course of hearing learned Chartered Accountant on behalf of appellant submitted that the appellant had effected excess payment and in case of finalization of provisional assessment, interest ought to have been calculated only after adjusting the excess payment against the shortfall. He further submits that although the same plea had been urged before the lower authorities but none of them have gone into this aspect. Per contra learned Authorised Representative on behalf of Revenue submits that no such plea was ever advanced by the appellant before any of the authorities below and my attention was invited to both the orders of the concerned lower authorities. Although I have not found any such submission in the appeal filed by the appellant before the learned Commissioner (Appeals), nonetheless since this plea is of utmost importance for deciding the interest liability, in the light of the decision of Hon'ble Karnataka High Court in the matter of *Toyota Kirloskar Auto Parts Pvt. Ltd. Vs. CCE, LTU, Bangalore; 2012(276) ELT 332 (Kar.) wherein it has held that "in the event of excess amount having been paid by asseessee, such excess ought to have set off against the short payment prior to computation of interest and if thereafter no shortfall, question of payment of interest does not arise*", therefore I am of the opinion that in the interest of justice one more opportunity be given to the appellant to raise this submission before the learned Commissioner alongwith the supporting documents as the learned Commissioner has to verify those documents. If excess payment has been made, as claimed by learned Chartered Accountant, then certainly that has to be looked into by the authority concerned before saddling the appellant with interest liability.

4. Therefore without expressing any opinion on the merits of the matter, I am remanding the matter back to the learned Commissioner (Appeals) to look into the aspect of excess payment, if any, before deciding the appeal afresh after giving adequate opportunity of hearing to the appellant. All contentions are left open. The appellant is also directed to place all the relevant documents before the learned Commissioner (Appeals) in order to establish excess payment made by them. Considering the age of the dispute, I expect learned commissioner to decide the appeal expeditiously, preferably within a period of three months from the date of receipt of this order.

5. The impugned order is accordingly set aside and the appeal is allowed by way of remand to the 1st Appellate Authority i.e. Commissioner (Appeals).

(Pronounced in open Court on 05.06.2025)

(Ajay Sharma)
Member (Judicial)

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