

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI
REGIONAL BENCH, COURT NO. 5**

CUSTOMS APPEAL NO. 87588 OF 2022

(Arising out of Order-in-Appeal No. MUM-CUS-KV-IMP-110/2022-23 NCH dated 17.08.2022 passed by the Commissioner of Customs (Appeals), Mumbai-1.)

**BAOSTEEL INDIA COMPANY PVT LTD
UNIT NO. 603, 6TH FLOOR,
C B SQUARE SANGAM COMPLEX,
ANDHERI KURNA ROAD,
CHAKALA, ANDHERI EAST,
MUMBAI-400059.**

Appellant

Vs.

**COMMISSIONER OF CUSTOMS(IMPORT),
MUMBAI IMPORT-I
NEW CUSTOMS HOUSE,
BALLARD ESTATE,
MUMBAI-400001.**

Respondent

Appearance:

Shri Kevin Gogri, Advocate with Shri Rishin Gala, C.A. for the Appellant .

Shri C. S. Vinod, Asstt. Commissioner, Authorised Representative for the Respondent:

CORAM:

Hon'ble Dr. SUVENDU KUMAR PATI, MEMBER (JUDICIAL)

FINAL ORDER NO. A/85901/2025

Date of Hearing: **16/05/2025**

Date of Decision: **16.06.2025**

Short issue involved in this appeal is related to the legality of the order passed by the Commissioner (Appeals) on dated 17.08.2022 in not allowing refund claim filed by the Appellant on the ground of limitation without

consideration of general period of exemption granted by Hon'ble Supreme Court in *suo- motu* writ petition (Civil) No. 3/2020 during Covid pandemic.

2. Facts of the case, in a nutshell, is that appellant had cleared 11 Bills of entry on provisional assessment between 2015 & 2018 after paying EDD @ 1% of the assessable value amounting to Rs. 20,69,268/- in total and such payment was paid by its sister concern which was allowed. Appellant sought for final assessment through a request letter dated 05.12.2019. Accordingly bills of entry were finally assessed on 15.01.2020. Appellant sought for refund by filing refund application on 18.01.2021 due to Covid-19 related constraints but refund was not granted for the reason that refund application was filed beyond the period of one year. Legality of the said order is assailed here.

3. I have heard submissions from both the sides. Ld. Counsel for the Appellant Mr. Kevin Gogri, argued that in *suo-motu* writ (Civil) No.3/2020, Hon'ble Supreme Court had excluded the period of limitation falling between 15.03.2020 and 28.02.2022 vide their orders dated 23.03.2020, 08.03.2021 and 10.01.2022 but without taking the said period into consideration. Ld. Commissioner (Appeals) had confirmed the order-in-Original in disallowing the refund on the ground of limitation. Further, Ld. Counsel for the Appellant, with reference to Saiher Supply Chain consulting Pvt. Ltd Vs. Union of India, reported in 2022(63) G.S.T.L. 415(Bom.), which has been affirmed by the Hon'ble Apex Court vide order as reported in 2022(66) G.S.T.L. 3(S.C.) submitted that the said extension period was applicable also for filing of refund application (including the subject refund applications) for which order passed by Commissioner (A) is required to be set aside.

4. Ld. Authorised Representative Mr. C. S. Vinod on the other hand supported the reasoning and rationality of the order passed by the Commissioner (Appeals) and reiterated his findings.

5. I have gone through the appeal paper books and both Order-in-Original and Order-in-Appeal passed by the Refund Sanctioning Authority as well as Commissioner (Appeals) respectively. The ground taken by the appellant here is not available as its submission before them except a noting that few days (4 days) delay has occurred due to Covid-19 Pandemic. However, Hon'ble Supreme Court's order being law of land and the authorities below can not take a plea that they are unaware of the law declared by the Hon'ble Supreme Court specifically under Article 142 of Constitution of India in exercise of power to ensure complete justice with a direction to communicate it to all concerned authorities that the order is having binding effect within the meaning of Article 141 of the Constitution of India, on all courts, Tribunals and Authorities. In the said *suo-moto* writ petition (Civil) 3/2020, it has been clearly held that period of limitation in all such proceedings, irrespective of the limitation prescribed under the General Law or Special Laws, whether condonable or not, shall stand extended w.e.f. 15.03.2020 till further orders and on March 8, 2021, the order passed by it would be covering the Appellant's case, the relevant portion of which would read;

In computing the period of limitation for any suit, appeal, application or proceedings, the period from 15.03.2020 till 14.03.2021 shall stand excluded. Consequently, the balance period of limitation remaining as on 15.03.2020, if any, shall become available with effect from 15.03.2021.

6. This being the position of law which is further affirmed in Saiher Supply Chain consulting Pvt. Ltd Vs. Union of India case, cited supra, covering refund

applications, I am of the considered view that Appellant's application for refund was filed within the stipulated time and he is entitled to get the refund with applicable interest. Hence the order;

The order

7. The appeal is allowed and the Order-in-Appeal No. MUM-CUS-KV-IMP-110/2022-23 NCH dated 17.08.2022 passed by the Commissioner (Appeals) is hereby set aside with a direction to the Respondent Commissioner to make payment of the refund of Rs. 20,69,268/- with applicable interest within a period of two months of receipt of this order.

(Order pronounced in the open court on 16.06.2025.)

(Dr. SUVENDU KUMAR PATI)
MEMBER (JUDICIAL)