CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Customs Miscellaneous Application No. 86620 of 2024
(on behalf of respondent)

IN

Customs Appeal No. 86424 of 2022

(Arising out of Order-in-Appeal No. PUN-CT-APPII-000-078-2020-21 dated 17.02.2021 passed by the Commissioner (Appeals-II), Central Tax, Pune)

M/s Krupadeep Traders **.... Appellant**
106, Hemmady Regency, Opp. SBI,
Malbhat, Margao, Goa – 403 601

Versus

The Commissioner of Customs, Pune-I **.... Respondent**
41-A, ICE House, Sassoon Road,
Opp. Wadia College, Pune – 411 001

AND

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Versus

The Commissioner of Customs, Pune **.... Respondent**
E-Wing, 4th Floor, GST Bhavan,
41-A, ICE House, Sassoon Road,
Opp. Wadia College, Pune – 411 001

APPEARANCE:

Shri H.K. Hirani, Consultant for the Appellant

Shri L.B. D'costa, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)

FINAL ORDER NO. A/85423/2026

Date of Hearing: 16.03.2026

Date of Decision: 16.03.2026

Per: S.K. Mohanty

This miscellaneous application has been filed by the Revenue for change of name and address of the respondent from "The Commissioner of Customs, Pune-I, 41-A, ICE House, Sassoon Road, Opp. Wadia College, Pune – 411 001" to **"The Commissioner of Customs, Pune, E-Wing, 4th Floor, GST Bhavan, 41-A, ICE House, Sassoon Road, Opp. Wadia College, Pune – 411 001"**. The prayer made by Revenue is considered and accordingly, the miscellaneous application is allowed. The changed name and address of the respondent is substituted in the cause title of this appeal.

2. Heard both sides and examined the case records.

3. The appellant had exported "Western Ghats Bauxite-Indian Origin" to Yokohama Port, Japan. The Shipping Bills filed by the appellant were provisionally assessed, for non-availability of the chemical test report and the final invoice. The provisionally assessed shipping bills were finalized vide Orders dated 27.02.2014 and 05.03.2014 by the proper officer. As a consequence of final assessment of the shipping bills, the duty determined amounting to Rs.14,05,634/- and Rs.10,90,772/- respectively were by the appellant. Subsequently, the appellant had contended that duty paid by it during the course of provisional assessment was not required to be paid and accordingly, it had challenged the final assessment orders by way of filing of appeal before the learned Commissioner (Appeals). The learned Commissioner of Customs (Appeals), Pune vide the order dated 15.02.2016 had allowed the appeal with consequential benefit in favour of the appellant. As a consequence of the favourable order passed by the learned Commissioner (Appeals), the appellant had filed a refund application before the jurisdictional Customs authorities on 26.02.2020, claiming refund of the excess duty paid by it. The refund application filed by the appellant was rejected by the original authority on the ground of limitation, holding that as per the provisions of Section 27 of the Customs Act, 1962, the refund application was required to be filed within one year from the date of order passed by the Commissioner (Appeals) and that since the refund application was filed beyond such statutory period, the same is barred by the limitation of time. The appeal filed against the rejection of refund application was also upheld by the learned Commissioner (Appeals), Central Tax, Pune vide the impugned order dated

17.02.2021. Feeling aggrieved with the said impugned order, the appellant has preferred this appeal before the Tribunal.

4. The impugned order dated 17.02.2021 was assailed by the appellant on the ground that its case falls under Section 26 of the Customs Act, 1962 and since the refund application was dealt with by the Department under Section 27 of the said Act, the benefit of refund should be available to the appellant. The further ground urged by the appellant is that the impugned order dated 15.02.2016 allowing the appeal of the appellant was challenged by Revenue by way of filing of appeal before the Tribunal. Thus, it is contended that since the appeal of Revenue was pending before the Tribunal, the period of one year for filing of refund application should not be reckoned from the date of passing of the order by the learned Commissioner (Appeals).

5. On reading of the statutory provisions, I find that the case of appellant does not fall under the scope and purview of Section 26 of the Act of 1962, inasmuch as it is not a case of return of exported goods or re-importation of the exported goods. Even assuming that the case of the appellant falls under Section 26 *ibid*, but clause (c) of Section 26 *ibid* provides also for a time frame for lodgment of the refund application, which was not complied with by the appellant. Insofar as claim for refund of duty is concerned, Section 27(1B)(b) of the Act of 1962 provides that where the duty became refundable as a consequence of any order passed by the appellate authority, then the limitation of one year shall be computed from the date of such order. It is an admitted fact on record that the Commissioner (Appeals) in the order dated 15.02.2016 had allowed the appeal in favour of the appellant with consequential relief. Thus, under the provisions of Section 27(1B)(b) *ibid*, the appellant was required to file the refund application within one year from the date of passing of the order by the learned Commissioner (Appeals). Since the favourable order was passed by the learned Commissioner (Appeals) on 15.02.2016 and thereafter, the refund application was filed by the appellant on 26.02.2020, the same in my considered view, is barred by limitation of time. Therefore, I do not find any infirmity in the impugned order dated 17.02.2021 passed by the learned Commissioner (Appeals), in upholding rejection of the refund application filed by the appellant.

6. In view of the foregoing discussions, I do not find any merits in the appeal filed by the appellant. Accordingly, the appeal is dismissed.

(Dictated and pronounced in open court)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

Sinha