CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

WEST ZONAL BENCH - COURT NO. 1

CUSTOMS APPEAL NO. 86471 OF 2024

(Arising out of Order-in-Original No. 290/2023-24/COMMR/NS-II/CAC/JNCH dated 26.03.2024 passed by the Commissioner of Customs (NS-II), Nhava Sheva-II)

Avery Dennison India Pvt. Ltd. **.....Appellant**
P-24, Green Park Extension,
New Delhi – 110 016

Versus

Commissioner of Customs, Nhava Sheva-II **.....Respondent**
Centralized Adjudication Cell,
JNCH, Nhava Sheva,
Uran, Raigad – 400 707

APPEARANCE:

Shri Mahir Chablani, Advocate for the appellant

Shri Jitesh Kumar Jain, Authorized Representative for the Respondent

CORAM: **HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT**
HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

DATE OF HEARING: 15.04.2026
DATE OF DECISION: 27.04.2026

FINAL ORDER NO. 85582/2026

JUSTICE DILIP GUPTA:

The issue that arises for consideration in this appeal that has been filed by **Avery Dennison India Pvt. Ltd.**[1], is whether interest can be levied under section 28AA of the **Customs Act, 1962**[2], on the demand of Integrated Goods and Service Tax[3] that was deposited by the appellant and whether the goods can be confiscated and in lieu of such confiscation, redemption fine can be imposed under section 125 of the Customs Act and penalty can be imposed under section 112(a) of the Customs Act.

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1 **the appellant**
2 **the Customs Act**
3 **IGST**

2. This issue was examined by the Bombay High Court in **A.R. Sulphonates Private Limited** vs. **Union of India**[4] and it was held that in view of the judgment of Supreme Court in **Mahindra & Mahindra Ltd. (Automotive Sector)** vs. **Union of India**[5], no interest could be charged on the IGST payment nor penalty or redemption fine could be imposed. This is for the reason that section 3(12) of Customs Tariff Act, 1975[6], prior to its amendment made on 16.08.2024, did not apply the provisions of the Customs Act relating to interest, offences and penalties to integrated tax chargeable under section 3(7) of the Tariff Act. The relevant portions of the judgment of Bombay High Court that was affirmed by the Supreme Court in **2023 (8) TMI 135**, are reproduced below:

> "60. **In Mahindra & Mahindra Limited (supra), this Court, after going through the provisions of Section 3 (6) of the Tariff Act and Section 3A (4) of the Tariff Act as applicable at the relevant time, held that no specific reference was made to interest and penalties in Sections 3 (6) and 3A (4) of the Tariff Act, which are substantive provisions and, therefore, imposing interest and penalty would be without the authority of law.** In the present case, the levy of IGST is under Section 3 (7) of the Tariff Act, and Section 3 (12) of the Tariff Act which is applicable to the said levy is pari materia to Sections 3 (6) and 3A (4) of the Tariff Act as referred to in the case of Mahindra & Mahindra Limited (supra). **In these circumstances, in our view, the said decision is squarely applicable to the facts of the present case.**
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> 61. **Further, we are unable to accept the submissions of the Respondents that the decision in the case of Mahindra & Mahindra Limited (supra) is not applicable to the facts of the present case since it does not interpret Section 3**

4 2025 (4) TMI 578 – Bombay High Court
5 2022 (10) TMI 212 – Bombay High Court
6 the Tariff Act

(12) of the Tariff Act. The provisions under consideration before this Court in the case of Mahindra & Mahindra Limited (supra) were Sections 3 (6) and 3A (4) of the Tariff Act. In Mahindra & Mahindra Limited (supra), this Court interpreted the provisions of Sections 3 (6) and 3 A(4) of the Tariff Act, which are pari materia to the unamended Section 3 (12) of the Tariff Act, which is in consideration in the present case. **On interpreting Sections 3 (6) and 3A (4) of the Tariff Act, this Court held that when no specific reference was made to interest and penalties in the said provisions, imposing interest and penalty would be without the authority of law. In these circumstances, in our view, the ratio of the decision in the case of Mahindra & Mahindra Limited (supra), would be squarely applicable to the facts of the present case.**

62. We are also not able to accept the submission of the Respondents that the provisions of Section 3 (12) use the term "including" and the same implies that the provisions of the Customs Act will be made applicable to the Tariff Act. As can be seen from the Judgement of this Court in Mahindra & Mahindra Limited (supra), Sections 3(6) and 3A(4) of the Tariff Act, which were considered by this Court in the said Judgement, also use the word "Including". Despite the same, this Court came to the conclusion that, since there was no specific reference to interest and penalties, imposing interest and penalties would be without the authority of law, *****

63. In these circumstances, in our view, the submissions of the Respondent, based on the use of the word "including" in Section 3 (12) of the Tariff Act, cannot be accepted."

(emphasis supplied)

3. The Bombay High Court also specifically held that the amendment to section 3(12) of the Tariff Act from 16.08.2024 was prospective in nature. This decision of the Bombay High Court in **A.R. Sulphonates** was

followed in **The Commissioner of Customs NS-Gen, JNCH, Nhava Sheva** vs. **B.K. Rekhatex (HK) Ltd.**[7].

4. Recently, a Division Bench of this Tribunal in **GTN Engineering (India) Limited** vs. **Pr. Commissioner of Customs (Adjudication), Mumbai**[8] also took the same view and the relevant observation is:

> "11. From the above, it clearly transpires that the amended provisions of sub-section (12) of Section 3 of the Customs Tariff Act, 1975, which enable imposition of interest, penalties etc. on the IGST levied in terms of sub-section (7) of Section 3 ibid, shall come into force w.e.f. 16.08.2024 and shall not be applicable during the disputed period in the present case i.e., 13.10.2017 to 09.01.2019, which is prior to the above said amendment. Therefore, we are of the considered view that levy of interest, redemption fine and penalty on the appellants in the present case of demand of IGST is not legally sustainable. Thus, we are of the view, that the Impugned order in totality is liable to be dismissed, as it does not stand the legal scrutiny."

5. Thus, for the reasons stated in the aforesaid decisions of the Bombay High Court in the case of **A.R. Sulphates** and **B.K. Rekhatex** and the decision of the Mumbai Tribunal in the case of **GTN Engineering (India) Ltd.**, it is to be held that levy of interest, redemption fine and penalty on the demand of IGST is not sustainable.

6. Thus, for all the reasons stated above, impugned order dated 26.03.2024 passed by the Commissioner of Customs to the extent it demands interest, imposes penalty and gives an option to redeem the goods on payment of redemption fine is set aside. However, the confirmation of demand and recovery of IGST is upheld.

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7 2026 (1) TMI 1534 – Bombay High Court
8 2026 (1) TMI 1177 – CESTAT Mumbai

7. The impugned order is accordingly modified to the extent indicated above. The appeal is allowed to this extent.

(Order Pronounced on **27.04.2026**)

(JUSTICE DILIP GUPTA)
PRESIDENT

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

Sinha