



सत्यमेव जयते

आयुक्त का कार्यालय
Office of the Commissioner
केंद्रीय जीएसटी, अपील अहमदाबाद आयुक्तालय
Central GST, Appeals Ahmedabad Commissionerate
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(क)	फाइल संख्या / File No.	GAPPL/COM/CEXP/420/2022-APPEAL / 545K - 58
(ख)	अपील आदेश संख्या और दिनांक / Order-In-Appeal No. and Date	AHM-EXCUS-003-APP-085/2023-24 and 28.08.2023
(ग)	पारित किया गया / Passed By	श्री शिव प्रताप सिंह, आयुक्त (अपील) Shri Shiv Pratap Singh, Commissioner (Appeals)
(घ)	जारी करने की दिनांक / Date of issue	11.09.2023
(ङ)	Arising out of Order-In-Original No. 01/CEX/Refund/DC/2022-23 dated 15.07.2022 passed by the Assistant Commissioner, CGST, Division-Kalol, Gandhinagar Commissionerate.	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	M/s Innovision Systems & Devices Pvt. Ltd., Plot No. 1143, Chhatral-Kadi Road, Opposite GEB Sub-station, Chhatral, Taluka-Kalol, Gandhinagar, Gujarat-382729.

कोई व्यक्ति इस अपील-आदेश से असंतोष अनुभव करता है तो वह इस आदेश के प्रति यथास्थिति नीचे बताए गए सक्षम अधिकारी को अपील अथवा पुनरीक्षण आवेदन प्रस्तुत कर सकता है, जैसा कि ऐसे आदेश के विरुद्ध हो सकता है।

Any person aggrieved by this Order-in-Appeal may file an appeal or revision application, as the one may be against such order, to the appropriate authority in the following way.

भारत सरकार का पुनरीक्षण आवेदन:-

Revision application to Government of India:

(1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1994 की धारा अतत नीचे बताए गए मामलों के बारे में पूर्वोक्त धारा को उप-धारा के प्रथम परन्तुक के अंतर्गत पुनरीक्षण आवेदन अधीन सचिव, भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, चौथी मंजिल, जीवन दीप भवन, संसद मार्ग, नई दिल्ली: 110001 को की जानी चाहिए :-

A revision application lies to the Under Secretary, to the Govt. of India, Revision Application Unit Ministry of Finance, Department of Revenue, 4th Floor, Jeevan Deep Building, Parliament Street, New Delhi - 110 001 under Section 35EE of the CEA 1944 in respect of the following case, governed by first proviso to sub-section (1) of Section-35 ibid :-

(क) यदि माल की हानि के मामले में जब ऐसी हानिकार खाने से किसी भण्डागार या अन्य कारखाने में या किसी भण्डागार से दूसरे भण्डागार में माल ले जाते हुए मार्ग में, या किसी भण्डागार या भण्डार में चाहे वह किसी कारखाने में या किसी भण्डागार में हो माल की प्रक्रिया के दौरान हुई हो।

In case of any loss of goods where the loss occur in transit from a factory to a warehouse or to another factory or from one warehouse to another during the course of processing of the goods in a warehouse or in storage whether in a factory or in a warehouse.



(ख) भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित माल पर या माल के विनिर्माण में उपयोग शुल्क कच्चे माल पर उत्पादन शुल्क के रिबेट के मामलों में जो भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित हैं।

In case of rebate of duty of excise on goods exported to any country or territory outside India of on excisable material used in the manufacture of the goods which are exported to any country or territory outside India.

(ग) यदि शुल्क का भुगतान किए बिना भारत के बाहर (नेपाल या भूटान को) निर्यात किया गया माल हो।

In case of goods exported outside India export to Nepal or Bhutan, without payment of duty.

(घ) अंतिम उत्पादन की उत्पादन शुल्क के भुगतान के लिए जो ड्यूटी क्रेडिट मान्य की गई है और ऐसे आदेश जो इस धारा एवं नियम के मुताबिक आयुक्त, अपील के द्वारा पारित वो समय पर या बाद में वित्त अधिनियम (नं 2) 1998 धारा 109 द्वारा नियुक्त किए गए हों।

Credit of any duty allowed to be utilized towards payment of excise duty on final products under the provisions of this Act or the Rules made there under and such order is passed by the Commissioner (Appeals) on or after, the date appointed under Sec.109 of the Finance (No.2) Act, 1998.

(2) केन्द्रीय उत्पादन शुल्क (अपील) नियमावली, 2001 के नियम 9 के अंतर्गत विनिर्दिष्ट प्रपत्र संख्या इए-8 में दो प्रतियों में, प्रेषित आदेश के प्रति आदेश प्रेषित दिनांक से तीन मास के भीतरमूल-आदेश एवं अपील आदेश की दो-दो प्रतियों के साथ उचित आवेदन किया जाना चाहिए। उसके साथ खाता इ का मुख्य शीर्ष के अंतर्गत धारा 35-इ में निर्धारित फी के भुगतान के सबूत के साथ टीआर-6 चालान की प्रति भी होनी चाहिए।

The above application shall be made in duplicate in Form No. EA-8 as specified under Rule, 9 of Central Excise (Appeals) Rules, 2001 within 3 months from the date on which the order sought to be appealed against is communicated and shall be accompanied by two copies each of the OIO and Order-In-Appeal. It should also be accompanied by a copy of TR-6 Challan evidencing payment of prescribed fee as prescribed under Section 35-EE of CEA, 1944, under Major Head of Account.

(3) रिविजन आवेदन के साथ जहाँ संलग्न रकम एक लाख रुपये या उससे कम होतो रुपये 200/- फीस भुगतान की जाए और जहाँ संलग्नरकम एक लाख से ज्यादा हो तो 1000/- की फीस भुगतान की जाए।

The revision application shall be accompanied by a fee of Rs.200/- where the amount involved is Rupees One Lac or less and Rs.1,000/- where the amount involved is more than Rupees One Lac.

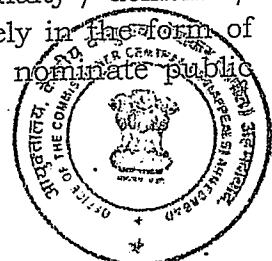
सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवा कर अपीलीय न्यायाधिकरण के प्रति अपील:-
Appeal to Custom, Excise, & Service Tax Appellate Tribunal.

(1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1944 की धारा 35-बी/35-इ के अंतर्गत:-
Under Section 35B/ 35E of CEA, 1944 an appeal lies to :-

(2) उक्तलिखित परिच्छेद में बताए अनुसार के अलावा की अपील, अपीलो के मामले में सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट) की पश्चिम क्षेत्रीय पीठिका, अहमदाबाद में 2nd माला, बहुमाली भवन, असरवा, गिरधरनागर, अहमदाबाद-380004।

To the west regional bench of Customs, Excise & Service Tax Appellate Tribunal (CESTAT) at 2nd floor, Bahumali Bhawan, Asarwa, Girdhar Nagar, Ahmedabad: 380004. In case of appeals other than as mentioned above para.

The appeal to the Appellate Tribunal shall be filed in quadruplicate in form EA-3 as prescribed under Rule 6 of Central Excise(Appeal) Rules, 2001 and shall be accompanied against (one which at least should be accompanied by a fee of Rs.1,000/-, Rs.5,000/- and Rs.10,000/- where amount of duty / penalty / demand / refund is upto 5 Lac, 5 Lac to 50 Lac and above 50 Lac respectively in the form of crossed bank draft in favour of Asstt. Registrar of a branch of any nominate public



sector bank of the place where the bench of any nominate public sector bank of the place where the bench of the Tribunal is situated.

(3) यदि इस आदेश में कई मूल आदेशों का समावेश होता है तो प्रत्येक मूल आदेश के लिए फीस का भुगतान उपर्युक्त ढंग से किया जाना चाहिए इस तथ्य के होते हुए भी कि लिखा पढ़ी कार्य से बचने के लिए यथास्थिति अपीलीय न्यायाधिकरण को एक अपील या केन्द्रीय सरकार को एक आवेदन किया जाता है।

In case of the order covers a number of order-in-Original, fee for each O.I.O. should be paid in the aforesaid manner notwithstanding the fact that the one appeal to the Appellant Tribunal or the one application to the Central Govt. As the case may be, is filled to avoid scriptoria work if excising Rs. 1 lacs fee of Rs.100/- for each.

(4) न्यायालय शुल्क अधिनियम 1970 यथा संशोधित की अनुसूची -1 के अंतर्गत निर्धारित किए अनुसार उक्त आवेदन या मूलआदेश यथास्थिति निर्णयन प्राधिकारी के आदेश में से प्रत्येक की एक प्रतिपर रु 6.50 पैसे का न्यायालय शुल्क टिकट लगा होना चाहिए।

One copy of application or O.I.O. as the case may be, and the order of the adjournment authority shall a court fee stamp of Rs.6.50 paise as prescribed under scheduled-I item of the court fee Act, 1975 as amended.

(5) इन ओर संबंधित मामलों को नियंत्रण करने वाले नियमों की ओर भी ध्यान आकर्षित किया जाता है जो सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (कार्याविधि) नियम, 1982 में निहित है।

Attention is invited to the rules covering these and other related matter contended in the Customs, Excise & Service Tax Appellate Tribunal (Procedure) Rules, 1982.

(6) सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट) एके प्रति अपीलो के मामले में कर्तव्यमांग (Demand) एवं दंड (Penalty) का 10% पूर्व जमा करना अनिवार्य है। हालांकि, अधिकतम पूर्व जमा 10 करोड़ रुपए है। (Section 35 F of the Central Excise Act, 1944, Section 83 & Section 86 of the Finance Act, 1994)

केन्द्रीय उत्पाद शुल्क और सेवाकर के अंतर्गत, शामिल होगा कर्तव्य की मांग (Duty Demanded)।

- (1) खंड (Section) 11D के तहत निर्धारित राशि;
- (2) लिया गलत सेनवैट क्रेडिट की राशि;
- (3) सेनवैट क्रेडिट नियमों के नियम 6 के तहत देय राशि।

यह पूर्व जमा 'लंबित अपील' में पहले पूर्व जमा की तुलना में अपील दाखिल करने के लिए पूर्व शर्त बना दिया गया है।

For an appeal to be filed before the CESTAT; 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited, provided that the pre-deposit amount shall not exceed Rs.10 Crores. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT. (Section 35 C (2A) and 35 F of the Central Excise Act, 1944, Section 83 & Section 86 of the Finance Act, 1994).

Under Central Excise and Service Tax, "Duty demanded" shall include:

- (i) amount determined under Section 11 D;
- (ii) amount of erroneous Cenvat Credit taken;
- (iii) amount payable under Rule 6 of the Cenvat Credit Rules.

(6) (i) इस आदेश के प्रति अपील प्राधिकरण के समक्ष जहाँ शुल्क अथवा शुल्क या दण्ड विवादित हो तो माँग किए गए शुल्क के 10% भुगतान पर और जहाँ केवल दण्ड विवादित हो तब दण्ड के 10% भुगतान पर की जा सकती है।

In view of above, an appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute."



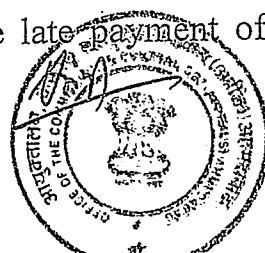
अपीलियआदेश / ORDER-IN-APPEAL

This order arises out of an appeal filed by M/s. Innovision Systems and Devices Pvt.Ltd.,Plot No.1143, Chhatral-Kadi Road, Opp. GEB Sub-Station, Chhatral, Taluka-Kalol, Dist. Gandhinagar (hereinafter referred to as '*appellant*') against Order in Original No. 01/CEX/Refund/DC/2022-23 dated 15.07.2022 (hereinafter referred to as '*the impugned order*') passed by the Assistant Commissioner, CGST, Division - Kalol, Commissionerate:Gandhinagar (hereinafter referred to as '*the adjudicating authority*').

2. The facts of the case, in brief, are that the appellant is engaged in manufacture and clearance of Electronic Control Panel Assemblies, Electrical Control Panel Assemblies, Textile Machinery Parts etc. They are registered under GST. Prior to the GST regime, the appellant was registered under erstwhile Central Excise Act, 1944 and were holding two (02) Central Excise Registrations. Central Excise Registration No (ECC No.) AABCI4605BEM003 was for their unit situated at Plot No.1143, Chhatral-Kadi Road, Opp. GEB Sub-Station, Chhatral, Taluka-Kalol, Dist.Gandhinagar and ECC No. AABCI4605BEM001 was allotted to their unit situated at E-235, GIDC Electronics Estate, Sector-26, Gandhinagar. The appellant has surrendered their ECC No. AABCI4605BEM001.

2.1 In their Central Excise Monthly return (ER-1) for the month of March-2017 filed in respect of ECC No. AABCI4605BEM003 the duty liability of Rs.32,00,000/- was reflected as paid. Factually, the appellant had paid the said amount of Rs.32,00,000/- against Central Excise duty for the month of March-2017 vide Challan dated 31.03.2017. However, during the course of making the payment they mentioned ECC No.AABCI4605BEM001 on the payment Challan. During the scrutiny of the ER-1 Returns of the appellant (ECC No. AABCI4605BEM003), the jurisdictional officer of Central Excise, informed the appellant that the payment of Central Excise duty of Rs. 32,00,000/- was not reflected in the database of said ECC No. Accordingly, the appellant deposited an amount of Rs. 32,00,000/- as Central Excise duty for the month of March-2017 vide Challan CIN No. 02005291812201800006 dated 18.12.2018/ against ECC No. AABCI4605BEM003.

2.2 As per the request of the jurisdictional officer the appellant paid an amount of Rs. 8,24,548/- on 10.04.2019 as interest towards the late payment of Central.



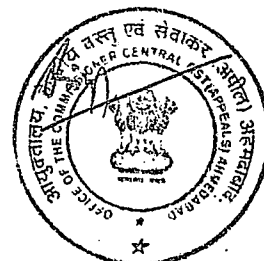
Excise duty amounting to Rs. 32,00,000/- . Thereafter, the appellant filed a Refund Claim with the jurisdictional officer for Rs. 32,00,000/- paid erroneously against ECC No. AABCI4605BEM001. The refund was sanctioned vide Order-in-Original No. OIO/04/Ref/STAX/NK/2019-20 dated 31.05.2019.

3. The appellant has thereafter tendered an application dated 27.11.2020 seeking Refund of interest amounting to Rs.8,24,548/- in the online GST portal vide ARN No. AA241120071966C. This application for refund was rejected as time barred vide Order dated 05.02.2021. Being aggrieved they filed an appeal before the Additional Commissioner (Appeals), Ahmedabad who decided the case vide Order-in-Appeal (OIA) No. AHM-CGST-003-APP-ADC-54/2021-22 dated 28.03.2022. Vide the said OIA, the appellate authority ordered that *"8.... I hold that the adjudicating authority has wrongly rejected the refund claim filed under Section 54 of CGST Act, 2017 by invoking time limitation prescribed under Section 11B of erstwhile Central Excise Act, 1944. Therefore, I hold that the impugned order passed by the adjudicating authority is not legal and proper and deserves to be set aside. I further order that any claim of refund filed in consequent to this Order may be dealt with in accordance with the provisions of erstwhile Central Excise Act, 1944 and Rules made thereunder after following the principles of natural justice. Accordingly I set aside the impugned order and allow the appeal filed by the appellant...."*

3.1 Consequently, the appellant filed an application for Refund before the adjudicating authority on 18.04.2022 claiming Refund of interest amounting to Rs. 8,24,548/-. Show Cause Notice F.No.GEXCOM/RFD/89/2022-CGST-DIV-KLL-COMMRTE-GANDHINAGAR dated 01.06.2022 (SCN for short) was issued to the appellant proposing to reject their claim of refund on grounds of being time barred.

3.2 The SCN was decided vide the impugned order wherein the Refund claim was rejected being hit by time limitations under the provisions of Section 11B of the Central Excise Act, 1944.

4. Aggrieved by the decision of the adjudicating authority, the appellants have filed the instant appeal on following grounds:



- The impugned order is vague as it reproduces the allegations in the SCN without any independent scrutiny. The adjudicating authority has neither considered the statutory or legal position nor the material facts of the case.
- They cited the decision of Hon'ble Gujarat High Court in the case of Arcelor Mittal Nippon Steel India Ltd. Vs Assistant Commissioner, 2021-VIL-840-GUJ.
- They also cited the following decisions :
 - CCE Vs Brindavan Beverages 2007 (213) ELT 487 (SC);
 - Royal Oil Field Pvt.Ltd. Vs UOI 2006 (194) ELT 385 (Bom);
 - B. Lakshminchandra Vs GOI 1983 (12) ELT 322;
 - Collector of Central Excise Vs HMM Ltd. 1995 (76) ELT 497 (SC);
 - Amrit Foods Vs CCE 2005 (190) ELT 433 (SC);
 - Madhur Hosiery Inds. Vs CCE 2006 (200) ELT 147;
- They contended that factually they should not have been required to pay the amount of Rs. 32,00,000/- two times as earlier it was inadvertently paid in wrong registration number, as 'Procedural Infarctions will not nullify the earlier payment made mistakenly'. In support of their contention they cited the decision of the Hon'ble Gujarat High Court in the case of Devang Paper Mills Pvt.Ltd Vs UOI, 2016 (41) STR 418 (Guj.). They also cited the judgement of the Hon'ble Court in the case of Auro Pumps Pvt.Ltd. Vs UOI, 2017 (353) ELT 7 (Guj.). and the decision of the Hon'ble CESTAT in the case of Printotech Global Ltd. Vs Commissioner, CGST, NOIDA (F.O. No.71502/2019, dated 01.08.2019).
- They contended that despite the fact that initially the appellant had paid Excise duty under wrong ECC No., department should have adjusted the said duty in the correct ECC. In the event these situations would not have arisen for the appellant.
- They contended that provisions of Section 11B will not apply to amount paid under mistake by law. In case law of limitation will apply and therefore refund has to be filed within a period of 03 years from the date when mistake is realized. Since in the instant case the appellant has filed the claim within 03 years, thus they are eligible for refund.
- Government cannot retain the money which is not due to them. In support they cited the decision of Hon'ble Supreme Court in the case of Solanah Tea Company Ltd. Vs Suptd. Of Taxes, Nowgong, 1987 (12) TMI-3-SC.

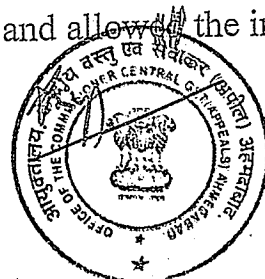


- In case where any assessee has paid certain amount under the mistake of law, which was not payable in the nature of tax/duty in the first place, the statutory limitation for filing refund claim in respect of the said amount cannot arise. In support they cited the decision of the Hon'ble CESTAT in the case of 3E Infotech Vs CCE, Appeals – 2018 (7) TMI 276-Madras High Court.
- They finally contended that Section 11B of Central Excise Act, 1944 would not be applicable in their case as the amount of Central Excise duty amounting to Rs. 32,00,000/- was actually paid twice by them and the Refund granting authority has termed the amount as an unspent advance.

5. Personal hearing in the case was held on 18.05.2023. Shri Ambarish Pandey, Advocate, appeared for personal hearing as authorised representative of the appellant. He re-iterated the submissions made in Appeal Memorandum. He also submitted a compilation of case laws during hearing. He stated that he would file an additional written submission in the matter.

5.1 The appellant submitted an additional submission on 22.05.2023 vide which they submitted a brief Synopsis of the incidents of the case leading to the claim of refund. They also reiterated the grounds and contentions stated in their appeal memorandum.

5.2 On account of change in the appellate authority, personal hearing was again conducted on 26.06.2023. Shri Ambarish Pandey, Advocate, appeared for personal hearing on behalf of the appellant. He reiterated the submissions made in the appeal memorandum and at the time of earlier personal hearing, in additional written submissions handed over on 22.05.2023. He submitted that the refund of the principal amount has already been sanctioned. However, the lower authority did not sanction refund on the ground that the refund application for interest was not filed within stipulated time limit of one year. He submitted that the refund was in respect of duty erroneously paid against a cancelled registration and the lower authority had observed that time limit is not applicable to such cases. He argued that when time limit is not applicable for principal amount the same cannot be made applicable to the interest amount. Even otherwise the very sanction of refund entitles the claimant for interest on account of delay in sanction of refund. Therefore, he requested to set aside the impugned order and allowed the interest on



refund. He relied on the judgements submitted alongwith the additional submissions.

6. I have carefully gone through the facts of the case available on record, grounds of appeal in the Appeal Memorandum, additional submissions made by the appellant and oral submissions made by the appellant during personal hearing. The issue to be decided in the case is, whether the impugned order passed by the adjudicating authority, rejecting the interest on refund in the facts and circumstances of the case is legal and proper or otherwise.

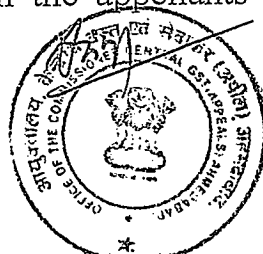
7. I find that the issue is related to refund of interest on an amount deposited by the appellant as duty two times. They had deposited an amount of Rs. 32,00,000/- as Central Excise duty on 31.03.2017 in respect of their unit bearing ECC No. AABCI4605BEM003. However, erroneously the amount was credited to their ECC No. AABCI4605BEM001 of which they were not aware. The jurisdictional officers realized the mistake and informed the appellant regarding the same. The appellant again deposited an amount of Rs. 32,00,000/- against their ECC No. AABCI4605BEM003 by Challan dated 18.12.2018. Thereafter, as desired by the jurisdictional authorities they paid an amount of Rs. 8,24,548/- on 10.04.2019 as interest for delayed payment of duty. As per the application of the appellant, the jurisdictional officer sanctioned the Refund of Rs. 32,00,000/- on 31.05.2019 vide OIO No. OIO/04/Ref/STAX/NK/2019-20 dated 31.05.2019.

8. It is observed that the refund sanctioning authority has recorded at Para-3.3 of OIO No. OIO/04/Ref/STAX/NK/2019-20 dated 31.05.2019 that "the Range Superintendent vide letter dated F.No. V.IV/16-01/MISC/GST/GNR/17-18 dated 14.03.2019 has confirmed that :

- i. *That the challans dated 31.03.2017 against Central Excise Registration No. AABCI1460BXM001 is reflected in the system.*
- ii. *The returns are not available in the system.*
- iii. *The applicant had surrendered their registration on 02.04.2009.*
- iv. *There is no dues outstanding/confirmed dues/demand pending from the appellant.*

These facts are undisputed.

8.1 From the above, I find that the appellant had surrendered their Central Excise Registration in respect of Central Excise Registration No. AABCI1460BXM001 on 02.04.2009. Accordingly, no Central Excise Returns were reflected in the system. However, on 31.03.2017 when the appellants wrongly



mentioned their Central Excise Registration No. as AABCI1460BXM001, for online payment of Central Excise duty for the period 2016-17 the system allowed them to deposit the same. In my view it is due to the fault of the System the amount of Rs.32,00,000/- was accepted as Central Excise duty against ECC No. AABCI1460BXM001 which was actually surrendered and closed since 02.04.2009, i.e more than 07 years before. Moreover, the fact that the said amount was reflected in the system against ECC No. AABCI1460BXM001 proves that the Central Excise duty amounting to Rs. 32,00,000/- was credited with the Government exchequer on 31.03.2017. But for the fact that the same was not being reflected by the system against the liability of ECC No. AABCI1460BXM003.

8.2 In view of the above, I find that the amount of Rs.32,00,000/- paid by the appellant on 18.12.2018 against ECC No. AABCI1460BXM003 was actually duplication of payment of Central Excise already credited with the Government exchequer but for the anomalies of the system not reflected against appropriate Central Excise Registration. From the above facts it is conclusively inferred that there was no delay in payment of Central Excise duty amounting to Rs. 32,00,000/- by the unit having ECC No. AABCI1460BXM003. Consequently, the question of payment of Interest for late payment of of Central Excise duty amounting to Rs. 32,00,000/- does not arise.

8.3 Accordingly I am of the considered view that the appellant are rightly eligible for Refund of interest amounting to Rs. 8,24,548/- paid by them on 10.04.2019. My above views find support from the following decisions of the judicial authorities :

➤ In an identical case, the Hon'ble Gujarat High Court in the case of Devang Paper Mills Pvt. Ltd Vs UOI, 2016 (41) STR 418 (Guj.) ruled that :

5. *Whatever be the accounting difficulty, when undisputed fact is that the petitioner did pay a certain excise duty, merely mentioning wrong code in the process, cannot result into such harsh consequence of the entire payment not being recognized as valid, incurring further liability of repayment of the basic duty with interest and penalties. Such amount was deposited by the petitioner with the Government of India and it was duly credited in the Government account. It is not even the case of the respondents that the petitioner had any other code by the number AADCD7232REM001 and for which there was separate manufacturing activity inviting separate duty liability. Indisputably, thus, the petitioner had singular duty liability for which the actual payment was also made. Under the circumstances, the impugned communication dated 5-5-2015 and notice dated 21-7-2015 are quashed. The respondents are directed to give credit of the duty paid by the petitioner for a sum of Rs. 22.15 lacs by making necessary accounting entries on the basis that the same was paid at the relevant time. If thereafter any sum remains unpaid, it would be*



open for the Department to take further action in accordance with law.
6. The petition is disposed of in the above terms.

- The Hon'ble Gujarat High Court relied on the above decision of the Learned Bench in the case of Auro Pumps Pvt. Ltd. Vs UOI, 2017 (353) ELT 7 (Guj.).
- The Hon'ble CESTAT, Allahabad in the case of Printotech Global Ltd. Vs Commissioner, CGST, NOIDA (F.O. No.71502/2019, dated 01.08.2019) decided that :

...
3.... It is seen that Hon'ble Gujarat High Court in the case of Devang Paper Mills Pvt. Ltd Vs UOI reported at 2016 (41) STR 418 (Guj.) has held that mere mentioning of wrong code in the process cannot result into harsh consequence of entire payment not being recognised as valid. As such, it was held that levy of interest and penalty is not sustainable. The said order stands subsequently followed by the Hon'ble Gujarat High Court in the case of Auro Pumps Pvt. Ltd. Vs UOI, reported at 2017 (353) ELT 7 (Guj.).

Though the appellant have referred to and relied upon various other decisions also but by noting that the issue is no more res integra and the appellant had already deposited the dues with the Revenue, the confirmation of interest and imposition of penalty upon them is not justifiable. Accordingly, the same is set aside and appeal is allowed to that effect.

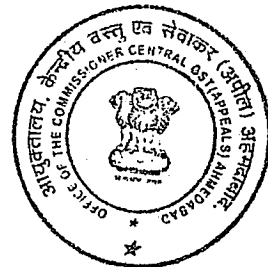
9. Therefore, respectfully following the above judicial pronouncements of the authorities, I am of the considered view that the appellants are eligible for refund of interest amount paid by them. Accordingly, the impugned order rejecting the refund claim of Rs. 8,24,548/- is set aside and the appeal filed by the appellant is allowed.

10. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।
The appeal filed by the appellant stands disposed of in above terms.

(Shiv Pratap Singh)
Commissioner (Appeals)
Date: ____ August, 2023

Attested:

(Somnath Chaudhary)
Superintendent(Appeals),
CGST, Ahmedabad.



By Regd. Post A. D

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Taluka-Kalol, Dist.Gandhinagar

Copy to :

1. The Pr. Chief Commissioner, CGST and Central Excise, Ahmedabad.
2. The Principal Commissioner, CGST and Central Excise,
Commissionerate:Gandhinagar.
3. The Deputy/Asstt. Commissioner, Central GST, Division-Kalol,
Commissionerate:Gandhinagar.
4. The Deputy/Asstt. Commissioner (Systems), CGST, Appeals, Ahmedabad.
- ✓ 5. Guard file
6. PA File



