



आयुक्त (अपील) का कार्यालय,

Office of the Commissioner (Appeal),

केंद्रीय जीएसटी, अपील आयुक्तालय, अहमदाबाद

Central GST, Appeal Commissionerate, Ahmedabad

जीएसटी भवन, राजस्व मार्ग, अम्बावाड़ी अहमदाबाद ३८००१५.

CGST Bhavan, Revenue Marg, Ambawadi, Ahmedabad 380015

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टेलिफैक्स 07926305136



DIN: 20220864SW000000CB7A

स्पीड पोस्ट

- क फाइल संख्या : File No : GAPPL/COM/STP/2239/2021-APPEAL / 3266 - 30
- ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-EXCUS-002-APP-28/2022-23**
दिनांक Date : 26.08.2022 जारी करने की तारीख Date of Issue 29.08.2022
- आयुक्त (अपील) द्वारा पारित
Passed by **Shri Akhilesh Kumar**, Commissioner (Appeals)
- ग Arising out of Order-in-Original No. **Div-VII/North/17/Refund/Patel Labour/2020-2021** दिनांक:
22-07-2021, issued by Deputy Commissioner, CGST, Division-VII, Ahmedabad-North
- ध अपीलकर्ता का नाम एवं पता Name & Address

1. Appellant

M/s Patel Labour Contractors Pvt Ltd
5/99, Sundar Nagar Flat,
Nr. Naranpura Char Rasta, Naranpura,
Ahmedabad-380013

2. Respondent

The Deputy Commissioner,
CGST Division-VII, Ahmedabad North
4th Floor, Shajanand Arcade, Nr. Helmet Circle,
Memnagar, Ahmedabad - 52

कोई व्यक्ति इस अपील आदेश से असंतोष अनुभव करता है तो वह इस आदेश के प्रति यथास्थिति नीचे बताए गए सक्षम अधिकारी को अपील या पुनरीक्षण आवेदन प्रस्तुत कर 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 :

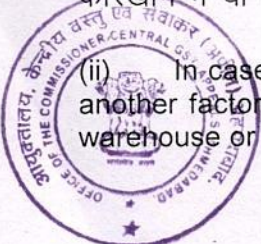
Revision application to Government of India :

(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।

(i) 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 :

(ii) यदि माल की हानि के मामले में जब ऐसी हानि कारखाने 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 प्रकिया के दौरान हुई हो।

(ii) 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.



- (क) 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 है।
- (A) 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.

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

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

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 हो।

- (c) 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.

- (1) 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 भीतर मूल-आदेश एवं अपील आदेश की दो-दो प्रतियों के साथ उचित आवेदन किया जाना चाहिए। उसके साथ खाता इ. का मुख्यशीर्ष 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.

- (2) रिविजन आवेदन के साथ जहाँ संलग्न रकम एक लाख रुपये या उससे कम हो तो रुपये 200/- फीस भुगतान की जाए और जहाँ संलग्न रकम 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 सेवाकर 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 :-

- (क) उक्तलिखित परिच्छेद 2 (1) क 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
- (a) 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 in para-2(i) (a) above.



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 पढी 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 Appellate 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 मूल आदेश यथास्थिति निर्णयन प्राधिकारी के आदेश में से प्रत्येक की एक प्रति पर 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.

- (21) सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट), के प्रति अपील के मामले में कर्तव्य मांग (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 सेवा कर के अंतर्गत, शामिल होगा "कर्तव्य की मांग"(Duty Demanded) -

- (i) (Section) खंड 11D के तहत निर्धारित राशि;
- (ii) लिया गलत सेनवैट क्रेडिट की राशि;
- (iii) 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.

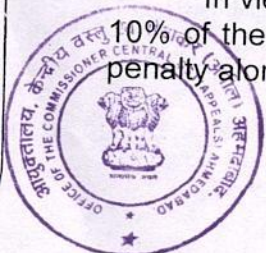
For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited, provided that the pre-deposit amount shall not exceed Rs.10 Crores. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT. (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:

- (xlv) amount determined under Section 11 D;
- (xlvi) amount of erroneous Cenvat Credit taken;
- (xlvii) amount payable under Rule 6 of the Cenvat Credit Rules.

इस 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."



ORDER – IN – APPEAL

The present appeal has been filed by M/s. Patel Labour Contractors Pvt. Ltd., 5/99, Sundar Nagar Flat, Nr. Naranpura Char Rasta, Ahmedabad-380013 (hereinafter referred to as "the appellant") against Order-in-Original No. Div-VII/North/17/Refund/Patel Labour/ 2020-2021 dated 22.07.2021 (hereinafter referred to as "the impugned order") passed by the Deputy Commissioner, Central GST and Central Excise, Division-VII, Ahmedabad North (hereinafter referred to as the "refund sanctioning authority"). The appellant are holding Service Tax Registration Number AACCP5544ST002.

2. The facts of the case, in brief, are that during the course of audit conducted by Service Tax Commissionerate for the F.Y.2005-06 to F.Y.2009-10, it was noticed that the appellant had received certain amount from their clients for providing taxable service which was not declared in their ST-3 return filed during the material time. Therefore, a SCN was issued on 19.05.2011, proposing service tax demand of Rs.70,21,924/-. The said SCN was adjudicated by the Commissioner, erstwhile Service Tax Ahmedabad vide OIO No.STC/36/COMMR/Ahd/2012 dated 28.09.2012, confirming the demand alongwith interest and imposing penalties u/s 76 & 78 of the Finance Act, 1994. Aggrieved by the said OIO, the appellant preferred appeal before the Hon'ble CESTAT Ahmedabad. Hon'ble Tribunal vide Order No. M/14896/WZB/AHD/2013 dated 14.10.2013, directed the appellant to deposit Rs.7 lakhs as pre-deposit. The appellant paid the amount of Rs.7,10,000/- and intimated the department vide letter dated 17.12.2013. Hon'ble CESTAT had subsequently vide Final Order No. A/11660/2021 dated 19.05.2021, set-aside the said OIO on the grounds of being time barred.

2.1 Consequently, the appellant filed an application claiming refund of pre-deposit of Rs.7,10,000/- alongwith interest amounting to Rs.3,15,051/-. The refund sanctioning authority sanctioned the refund but he rejected the interest on the grounds that the interest on such payment shall accrue from the date of payment only where such pre-deposit is made after 2014. As the pre-deposit was made in 2013, in terms of earlier provisions of Section 35FF of the Central Excise Act (CEA), 1944, interest is not admissible.

2.2 Being aggrieved with the impugned order, the appellant has preferred this appeal, wherein they contested the impugned order on following grounds:-

- In terms of Para-5 of the CBEC Circular No.984/08/2014-CX dated 06.09.2014, in all cases where the appellate authority has decided the matter in favour of the appellant, refund with interest should be paid to the appellant within 15 days of the receipt of the letter seeking refund, irrespective whether order of the appellate authority is proposed to be challenged by the department or not. Such instruction was also reiterated in Para 26 of Circular No.1053/02/2017-CX dated 10.03.2017.
- They placed reliance on the judgment pronounced in the similar case of M/s. Fujikawa Power and M/s. Kenzo International Vs CCE & St, Chnadigarh-I and requested to pay interest from the pre-deposit till actual payment of receipt i.e. on 22.07.2021.

3. Personal hearing in the matter was held on 17.08.2022 in virtual mode. Mr. Bishan R. Shah, Chartered Accountant, appeared on behalf of the appellant. He reiterated the



submissions made in the appeal memorandum. In the additional written submissions, the appellant has relied on various judicial pronouncements which are as under:

- Continental Engines Pvt Ltd-2022(5) TMI 903-CESTAT
- Prem Jain Ispat Udyog Ltd- 2022(5) TMI 645-CESTAT
- Amidhara Texturising (P) Ltd.-2012(10) TMI 342-CESTAT
- Parle Agro Pvt Ltd.- 2021 (5) TMI 870-CESTAT
- Sandvik Asia Ltd.- 2006(196) ELT 257-SC

4. I have carefully gone through the facts of the case, the impugned order passed by the refund sanctioning authority, submissions made in the appeal memorandum, submissions made at the time of personal hearing as well as in the additional written submissions.

The issue to be decided under the present appeal is whether the interest claimed by the appellant on the refund of pre-deposit amount of Rs.7,10,000/- is admissible or not?

5. Refund sanctioning authority rejected the interest on the grounds that as per the provision of Section 35FF of Central Excise Act, 1944, prior to amendment on 06.08.2014, the interest on pre-deposit is admissible only from the date, on expiry of 3 months consequent to the order of the Appellate Authority in terms of Section 11BB of Central Excise Act, 1944. As the pre-deposit in the case was made in 2013, no interest shall accrue to the appellant in terms of above provisions. The appellant on the other hand are contending that they are entitled for refund of pre-deposit pursuant to Tribunal's Order dated 19.04.2021 i.e. the cause of action to claim the impugned refund arose after 06.08.2014 when Section 35FF got amended hence they were eligible for interest, from the date of payment till the actual receipt of refund.

5.1 I have gone through the provisions of Section 35FF. The amended Section 35FF was brought into force w.e.f. 6-8-2014, to provide for interest on delayed refund of pre-deposit from the date of pre-deposit made till the date of refund, as against earlier provisions, where interest was payable only if pre-deposit was not refunded within 3 months from date of communication of order of Appellate Authority. To appreciate the true scope of the said provisions, both the provisions are reproduced below:-

Before 6-8-2014:

35FF: Interest on delayed refund of amount deposited under the proviso to Section 35F.-

Where the amount deposited by the Appellant in pursuance of an order passed by the Commissioner (Appeals) or the Appellate Tribunal (hereinafter referred to as the appellate authority), under the first proviso to Section 35F, is required to be refunded consequent upon the order of the Appellate authority and such amount is not refunded within three months from the date of communication of such order to the adjudicating authority, unless the operation of the order of the appellate authority is stayed by a superior court or tribunal, there shall be paid to the appellant interest at the rate specified in Section 11BB after the expiry of three months from the date of communication of the order of the appellate authority, till the date of refund of such amount.



From 6-8-2014 :

35FF. Interest on delayed refund of amount deposited under the proviso to Section 35F. -

Where the amount deposited by the appellant under Section 35F is required to be refunded consequent upon the order of the appellate authority, there shall be paid to the appellant interest at such rate, not below five per cent and not exceeding thirty-six per cent per annum as is for the time being, fixed by the Central Government, by notification in the Official Gazette, on such amount from the date of payment of the amount till the date of refund of such amount.

Provided that the amount deposited under Section 35F, prior to the commencement of the Finance (No. 2) Act, 2014, shall continue to be governed by the provisions of Section 35FF as it stood before the commencement of the said Act.

5.2 Thus, the new provisions are applicable only to the pre-deposit made under Section 35F of the Central Excise Act after August 6, 2014. Further, the rate of interest has been fixed at 6% per annum vide Notification No. 24/2014-CE (NT) dated August 12, 2014. In the instant case, the pre-deposit was made in 2013 i.e. prior to the amendment in Section 35FF, thus the appellants are entitled to interest from the date only after expiry of 3 months from the date of communication of the CESTAT order which in the present case is from 19.05.2021. The refund was sanctioned on 22.07.2021 that is well within three months from the date of communication, so there appears no reason for granting interest.

5.3 Further, the appellant has heavily relied on Board vide Circular No. 984/8/2014-CX., dated 16-9-2014 and Circular No.1053/2/2017-CX dated 10.03.2017. Board in both the circulars have clarified that where the appeal is decided in favour of the party/assessee, he shall be entitled to refund of the amount deposited along with the interest at the prescribed rate from the date of making the deposit to the date of refund in terms of Section 35FF of the Central Excise Act, 1944 or Section 129EE of the Customs Act, 1962. Refund with interest should be paid to the appellant within 15 days of the receipt of the letter of the appellant seeking refund, irrespective of whether order of the appellate authority is proposed to be challenged by the Department or not. I find that the above clarification was issued after enactment of Finance Act (No. 2), 2014 on 6-8-2014, wherein Section 35F of the Central Excise Act, 1944 and Section 129E of the Customs Act, 1962 have been substituted with new sections. Since in the present appeal the pre-deposit was made prior to 06.08.2014, interest on delayed refund as per the earlier provisions of Section 35FF shall accrue only after three months from the date of issue of the CESTAT order. This is also apparent from the proviso to amended Section 35FF which clearly mandates that the earlier provision of Section 35FF shall apply to the amount deposited prior to the commencement of Finance Act, 2014. Accordingly, I do not find merit in appellant's contention that they are eligible for interest from the date of payment till the actual receipt of refund.

5.4 The issue is legally settled as Hon'ble Delhi High Court Bench on 12-9-2013 **dismissed** the W.P. (C) No. 4931 of 2012 filed by AFCONS Infrastructure Ltd. [AFCONS Infrastructure Ltd. v. Commissioner - 2015 (318) E.L.T. A158 (Del.)] against the CESTAT Misc. Order Nos. 649-651/2012-EX(PB), dated 5-6-2012 as reported in **2012 (283) E.L.T.**



410 (Tri.-Del.) (AFCONS Infrastructure Ltd. v. Commissioner). While dismissing the writ petition, the High Court passed the following order :

"" 3. The petitioner had made pre-deposit of Rs. 55 lacs for hearing of the appeal. This amount was deposited and has been refunded as per law, i.e., the statute. Article 265 of the Constitution of India has no application and has not been violated. Interest is payable on refund as per Section 35FF of the Act. Under the said statutory provision, no interest is payable as refund has been made within time. Petitioner has not challenged constitutional validity of Section 35FF of the Central Excise Act, 1944, which is applicable. The prayers made in the writ petition are two-fold. Firstly, the petitioner has prayed for quashing of order dated 5th June, 2012 passed by the Tribunal rejecting the rectification application filed by the petitioner for payment of interest. The Tribunal has held that interest is payable only in terms of Section 35FF and for claiming interest, they have to apply to the jurisdictional Assistant/Deputy Commissioner. **As far as prayer for payment of interest from the date of deposit, i.e., 8th August, 2008 is concerned, there is no statutory provision for payment of interest from the said date and the statutory provision, i.e., Section 35FF permits interest only from the date of expiry of three months from the date of communication of appellate order to the department.** The second prayer in the writ petition is for direction to pay interest @ 12% per annum from the date of pre-deposit of Rs. 55 lacs. As noticed above, the constitutional validity of Section 35FF of the Central Excise Act has not been challenged. The writ petition is accordingly dismissed."

5.5 Further, I find that the Apex Court in the case of *Commissioner of Central Excise, Hyderabad v. I.T.C. Ltd.* reported in 2005 (179) E.L.T. 15 (S.C.), has held that in the event of refund of any pre-deposit when a question arises of giving interest on the delayed refund of pre-deposit, as provided under the Draft Circular by C.B.E. & C. the payment of interest on such delayed refunds beyond three months would require the payment of interest and the same is to be 12% per annum. Period of three months commences from the date of final disposal of the dispute between the parties. The Circular No. 802/35/2004, dated 8-12-2004 if is also examined, it relates to return of deposit made as per the direction of the Tribunal and it is specified therein that the deposit needs to be returned within three months of the disposal of the appeal.

5.6 Similar view was also taken by Hon'ble High Court of Judicature at Allahabad reported at **2013 (292) E.L.T. 45 (All.)** in the case of V.P.I. (P) LTD. wherein it was held that;

"9. In the present case, the Tribunal has allowed the interest to the appellant immediately after three months period from passing the order of the Tribunal. The order of Tribunal was passed on 31st of March, 2000 and interest has been allowed from 1st July, 2000. Thus, the order of the Tribunal is fully in accord with the circular as approved by the Apex Court. The submission of the appellant that he is entitled for payment of interest from the date of deposit cannot be accepted."

5.7 Furthermore, I find that the appellant had relied on various judicial pronouncements which, I find are distinguishable on facts. The case of *Sandvik Asia Ltd.-2006(196) ELT 257-SC* relied by the appellant is distinguishable on facts as it deals with the Sections 214 and 244 of the Income Tax Act, 1961. In that case the appellant's money i.e. 40 lakhs had been unjustifiably withheld by the Department for 17 years without any rhyme or reason. Therefore, interest on delayed payment of refund was ordered to be paid by the Income Tax Department. Similarly, in the case of *Fujikawa Power & M/s. Kenzo International Vs Chandigarh-I and Continental Engines Pvt. Ltd.*, the pre-deposit was made after the amendment of Section 35FF, hence interest was ordered



from the date of payment till the date of refund. Whereas in the instant appeal facts being different as the date of deposit is in 2013 which is prior to 2014 and therefore the provision of Section 35FF before 2014 shall alone apply, which discernibly mandates the payment of interest only if there was a delay beyond three months from the receipt of the order.

5.8 I have also gone through the decisions passed in the case of Amidhara Texturising (P) Ltd. and Parle Agro Pvt Ltd which were passed by Hon'ble Tribunal, wherein, it was ordered to grant interest from the date of deposit of the amount till date of payment. However there are numerous other judgments pronounced by higher judicial forum on the issue, like judgment of Hon'ble Apex Court passed in the case of ITC Ltd, judgment of Hon'ble High Court of Allahabad passed in the case of VPI (P) Ltd and judgment of Hon'be High Court of Delhi passed in the case of AFCONS Infrastructure Ltd, wherein interest was ordered from the date of expiry of three months from the date of communication of the appellate order to the department. Similarly, I also find that the above judicial pronouncements made by higher judicial forums were not distinguished by Hon'ble Tribunal in the case laws relied by the appellant, hence I find that these judgment shall have precedential value. Likewise, there are various decisions of jurisdictional Tribunal Bench, Ahmedabad passed in the case of V.V. Spintex v/s CCE, Ahmedabad- 2010 (256) E.L.T. 625 (Tri. - Ahmd.), Deep Construction Co.- 2019 (365) E.L.T. 532 (Tri. - Ahmd.), which are binding on me. Thus, following the judicial discipline in the above referred decisions of higher judicial forum, I am inclined to give the ruling against the appellant.

6. Going by the records and facts of the case, I find that there is no dispute that based on the Final Order dated 19.05.2021 of the Hon'ble Tribunal, the refund came to be sanctioned by the refund sanctioning authority vide order dated 22.07.2021, which is very much within the prescribed period of three months. Consequently, I uphold the impugned order and reject appellant's appeal.

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

(Handwritten Signature)
(अखिलेश कुमार)
आयुक्त (अपील्स)

Date: 8.2022

Attested
(Handwritten Signature)

(Rekha A. Nair)
Superintendent (Appeals)
CGST, Ahmedabad

By RPAD/SPEED POST

To,



M/s. Patel Labour Contractors Pvt. Ltd.,
5/99, Sundar Nagar Flat,
Nr. Naranpura Char Rasta,
Ahmedabad-380013

- **Appellant**

The Deputy Commissioner
CGST, Division-VII, Ahmedabad North
Ahmedabad

- **Respondent**

Copy to:

1. The Chief Commissioner, Central GST, Ahmedabad Zone.
2. The Commissioner, CGST, Ahmedabad North.
3. The Assistant Commissioner (H.Q. System), CGST, Ahmedabad North.
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