



सत्यमेव जयते

आयुक्त का कार्यालय
Office of the Commissioner
केंद्रीय जीएसटी, अपील अहमदाबाद आयुक्तालय
Central GST, Appeals Ahmedabad Commissionerate
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(क)	फ़ाइल संख्या / File No.	GAPPL/COM/CEXP/228/2023 / 2531-35
(ख)	अपील आदेश संख्या और दिनांक / Order-In -Appeal and date	AHM-EXCUS-001-APP-295/2023-24 and 29.02.2024
(ग)	पारित किया गया / Passed By	श्री ज्ञानचंद जैन, आयुक्त (अपील) Shri Gyan Chand Jain, Commissioner (Appeals)
(घ)	जारी करने की दिनांक / Date of Issue	06.03.2024
(ङ)	Arising out of Order-In-Original No. WS08/CGST/Ref-05/KSZ/AC/2022-23 dated 23.01.2023 passed by The Assistant Commissioner, Central GST, Division-VIII, Ahmedabad South.	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	M/s. Infinium Motors Pvt. Ltd., 842, Near YMCA Club, Sarkhej- Gandhinagar Highway, Post Jivraj Park, Ahmedabad

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 अंततः 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 में 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 निर्यात में उपयोग शुल्क कच्चे माल पर उत्पादन शुल्क के रिवेट के मामलों में जो भारत के बाहर किसी राष्ट्र या प्रदेश में



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 विस अधिनियम (नं 2) 1998 धारा 109 द्वारा नियुक्त किए गए हो।

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 भीतर मूल-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 रूपये 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, अपीलों 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 होने 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 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 तथा सम्बन्धित की अनुसूची -1 के अंतर्गत निर्धारित किए अनुसार उक्त आवेदन या मूलआदेश यथास्थिति निर्णयन प्राधिकारी के आदेश में से प्रत्येक की एक प्रतिपर रू 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 (मिस्टेट) 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 प्रथमा शुल्क या दण्ड विवादित हो तो मांग 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 Infinium Motors Pvt. Ltd., 842, Near YMCA Club, Sarkhej-Gandhinagar Highway, Post Jivraj Park, Ahmedabad (hereinafter referred to as the "appellant") against Order in Original No. WS08/CGST/Ref-05/KSZ/AC/22-23 dated 23.01.2023 [hereinafter referred to as "impugned order"] passed by the Assistant Commissioner, CGST, Division-VIII, Ahmedabad South (hereinafter referred to as "adjudicating authority") rejecting interest on the sanctioned refund of Rs. 1,10,49,986/-.

2. The facts of the case are that the appellant, having service tax registration no. AAACI4684BST001, sought a refund of Rs. 1,88,91,479/- with interest from 19-04-2021, following the final order A/11179/2022 dated 30-09-2022 by the Hon'ble CESTAT, Ahmedabad, against the earlier order by the Principal Commissioner of Central Excise. The case actually pertains to seven Show Cause Notices (SCNs) issued to the appellant. The appellant, an approved dealer of Toyota Kirloskar Motors Pvt. Ltd., purchased vehicles and spare parts from Toyota Kirloskar, selling them to customers.

2.1. The appellant also operated as an Authorized Service Station for Toyota vehicles, using parts from Toyota Kirloskar and lubricants from M/s Savita Oil Technology Pvt. Ltd. The appellant issued separate bills to customers, reflecting service charges subject to service tax and the value of spare parts and lubricants subject to VAT. The appellant did not claim Cenvat Credit for spare parts and lubricants used in service provision but availed credit for input services like advertising, telecommunication, banking, and housekeeping, using it for paying service tax on authorized service station services, commission from finance and insurance, and rent-a-cab services. Additionally, the appellant reversed credit for steel and cement used in showroom construction.



2.2. The appellant were raised four main issues: including spare parts and lubricants in the gross value of services, treating trade discounts as commission, availing Cenvat credit on common input services, and claiming credit for construction materials. The Adjudicating Authority combined all seven SCNs into one order, confirming a total demand of Rs. 54,62,35,679/- with interest and penalty. The appellant appealed before the Hon'ble CESTAT, Ahmedabad, under Service Tax Appeal No. ST/10665/2021 filed on 19.04.2021, complying with the pre-deposit requirement of 7.5% of the total demand before filing the appeal.

2.3. The applicant citing the above decision by the Hon'ble CESTAT in their favor vide the Final Order dated 11179/2022 dated 30.09.2022 have filed a refund claim on 19.12.2022, amounting to Rs. 1,88,91,479/- with interest from 19.04.2021. Vide the impugned order the adjudicating authority sanctioned the refund of Rs. 1,10,49,986/- rejecting the refund claim of Rs. 78,41,493/-. The adjudicating authority did not allow refunding interest amount on sanctioned refund of Rs. 1,10,49,986/-.

3. Being aggrieved with the impugned order passed by the adjudicating authority, the appellant have preferred the present appeal on the following grounds:

➤ Impugned O-I-O dated 23-01-2023 passed by adjudicating authority is bad in law, not sustainable and contrary to the facts & law applicable in such facts and hence it requires to be set aside, where it has not allowed "Interest" on Refund sanctioned for Rs. 1,10,49,986/-, which comes to Rs. 10,66,421/- as per calculation @ 6% P/A from the date of its deposit.

➤ The adjudicating authority has not appreciated that Refund sanctioned ought to have been given with interest to the appellant, which was allowable while sanctioning the Refund claim.



➤ The adjudicating authority has not correctly appreciated that in the facts of the case that the appellant had deposited the amount as directed by the officers to pursue legal remedies without prejudice to the rights and contention to contest the same. Thus, the amount was only pre-deposit to pursue the legal remedy provided in the law, which was not the amount of any duty/Service Tax and O-I-O should have considered it as the amount of mandatory "Pre-deposit" and hence interest thereon should have been paid from date of its deposit.

➤ Appellant submit that Assistant Commissioner, while sanctioning Refund has not correctly appreciated that amount of Rs. 1,10,49,986/- deposited at the initial stage of proceedings under Act has to be Returned with appropriate Interest at least @ 6% thereon.

➤ Appellant submit that the Assistant Commissioner, while sanctioning the Refund has not correctly appreciated and has failed to notice that "interest" is "compensation" to be given to one party, whose money has been retained by the other party as deposit, in order to safeguard Government's revenue. However, while sanctioning amount refunded was not at all part of Government's revenue and therefore, refunded amount should have been paid to the Appellant with interest @ 6%, as per the law of natural justice. When money of Appellant was with Government merely as a pre-deposit, Appellant is entitled to compensation by way of interest on the said deposit in returning the said deposited amount of the payment lawfully due to the appellant which were withheld wrongly and contrary to law by Department. Appellant submit that Central Excise Act 1944 and settled law thereon has also recognized the principle by settled law that on a person duty should be levied in accordance with law and hence where excess amounts of duty is collected from an assessee or any amounts are wrongfully withheld from Appellant without authority of law, revenue must compensate Appellant the appropriate



interest, at least @6% on excess amount of deposit.

➤ Appellant submit that Assistant Commissioner, while sanctioning Refund has not correctly appreciated and has failed to consider that appellant was undisputedly entitled to Refund and appellant's money had been unjustifiably withheld by Department since its deposit without any rhyme or reason. Interest on payment of refund was not paid to appellant due to erroneous view that had been taken by the Assistant Commissioner in para 16 showing that since Refund is paid within 3 months from 19-12-2022, Appellant is not eligible for "Interest" as claimed. However, since it was not refund of "Duty/Tax", the adjudicating authority was duty bound to refund amount with the "Interest" @ 6% thereon from date of deposit till its return by O-I-O.

➤ Appellant submit that Interest on refund is not granted, Appellant should also becomes entitled to Interest as further compensation. Assistant Commissioner has failed to appreciate that while charging interest from assesses, Department first adjusts amount paid towards interest so that principal amount of duty payable remain outstanding and they are entitled to charge interest till outstanding duty is paid. But when it comes to granting of interest on refund of the deposit, refund of such deposits are not paid to Appellants for reasons best known to the adjudicating authority. Hence, it is incorrect stand taken by Assistant Commissioner that Revenue is not liable to pay interest, while revenue has used Appellant's money and have taken benefit of Appellant's money since its deposit. Appellant submit that by denying payment of interest on refund of such deposits by Appellant, Assistant Commissioner has taken incorrect view in the facts of this case, which is contrary to the settled law and against natural justice to Appellant.

➤ This stand taken by Assistant Commissioner in releasing Refund only "Without Interest" is discriminatory in nature and



thereby causing great prejudice to the Appellant. Department can not simply refuse to pay amounts of interest on deposits lawfully as has happened in the instant case. It is the case of appellant that they have been deprived of Rs. 1,10,49,986/- since year its deposit. This could be treated unlawful actions of Department for periods during such deposits. Returning of deposits made for Rs. 1,10,49,986/-, without paying any compensation of interest by Department is unlawful & unjustified qua Appellant. Such actions and consequences, in humble submission, seriously affected Administration of justice and rule of Natural Justice.

➤ Appellant submit that Assistant Commissioner has not correctly interpreted the CBEC Circular No. 1053/2/2017-CX., dated 10-03-2017 and Para 26(i) thereof mainly shows that where the "appeal" is decided in favor of the party/assessee, he shall be entitled to refund of the amount deposited along with interest at prescribed rate from the date of making deposit to the date of refund of such deposit.

➤ It may be appreciated that the submissions in "Service Tax Appeal" made before the Hon'ble CESTAT are accepted and the demands in question are dropped, then also the amount for which demands are dropped remain as pure pre-deposit and in such cases, section 35FF of the Central Excise Act 1944 and CBEC Circular provides to allow interest from the date of making of the deposit till the date of payment of Refund. Further, Circular also shows that refund of pre-deposit neednot be subjected to refund process of duty under Section 118 Central Excise Act 1944. This also makes it clear that the amount only "Pre-deposit" and it was not "Duty/Tax". Circular has also dire that in all cases where Appeal is decided case in favor of appeal refund with interest should be paid within 15 days, irrespective whether order of appellate authority is proposed to be challenged Department or not. Thus, Circular has not been correctly follower Assistant Commissioner and he has adopted reverse view, which contrary



to very objective and scheme of allowing refund in respe pre-deposit from the date of deposit, as such pre-deposit is not c Accordingly, Appellant submit to correctly apply this circular in its perspective to allow substantive benefit of "interest" on such refund pre-deposit made by the Appellant. It is also a settled law that w any amount directed to be deposited before its final assessment adjudication in proceedings, such deposit will not attain a character "duty" and it shall be treated as pre-deposit only to secure remedy a particular case. Provisions of section 11B or 11BB of the Central Excise Act would not be applicable in such case. Accordingly, am deposited by the Appellant for appeal remedies, such am deposited should have been treated as mere pre-deposit and interest of Rs. 10,66,421/- thereon should have been allowed giving refund of such pre-deposited amount of Rs. 1,10,49,986/-.

➤ Appellant submit that Assistant Commissioner, while sanctioning Refund has not correctly appreciated that there cannot be doubt that the interest of Rs. 10,66,421/- on the refunded amount is as per provisions of law and in facts and circumstances of this case, when Rs. 1,10,49,986/- is deposited by Appellant as pre-deposit. This deposit would be without prejudice to the rights and contentions of Appellant. When provision is made in the statute, such provision has to be followed by field officers. Therefore, Assistant Commissioner was required to take all relevant factors into consideration while deciding Interest on Refund of the amount of pre-deposit as compensation to be paid to Appellant as per Section 35FF of Central Excise Act 1944. Assistant Commissioner has not considered this factor. Hence, Appellant pray for consideration in EA-1 Appeal against O-1-0 dated 23-01-2023, which has not paid the lawful interest of Rs. 10,66,421/-, payable to the Appellant under Section 35FF ibid. This would be in the consonance of natural justice to the Appellant.

➤ Applicant/Appellant had filed claim for Refund of Rs.



1,88,91,479/-, which was only Pre-deposited u/s 35F of the Central Excise Act 1944. Appellant requests to consider section 35FF of Central Excise Act 1944 read with provisions of Section 142(3) of CGST Act 2017 and direct to release "Interest" from the date of payment of pre-deposit for filing Service Tax Appeal as provided u/s 35FF of Central Excise Act 1944 by the Government of India.

➤ This payment of Refund with the interest will meet the ends of justice to the Appellant and interest of the equitable natural justice under law. Hence, payment of Interest would also be in accordance with the settled law of the land and would resolve financial difficulties of Appellant and Appellant request that "Interest" on Refund be allowed. Appellant submit that except confirmation & quantification of duty.

➤ Appellant submit that except confirmation & quantification of duty, interest, penalty, excess amount paid by Appellant was "Pre-deposit", which could not have been retained even by Government and ought to have been returned with interest at least 6% as provided in section 35FF of Central Excise Act 1944. Assistant Commissioner of CGST & Central Excise ought to have returned Rs. 1,10,49,986/- to Appellant without Interest from the date of its deposit. Assistant Commissioner has not appreciated that amount of Rs. 1,10,49,986/- was money deposited by Appellant did not belonged to revenue, who were at the best, custodian of Rs. 1,10,49,986/-. This was required to be followed by Assistant Commissioner as per section 35FF of Central Excise Act. Pre-deposited money was in nature of deposit/pre-deposit.

3. Shri P. P. Jadeja consultant appeared for personal hearing and reiterated the submissions in the appeal. He submitted that the appellant had filed refund in respect of pre-deposit made by them under section 35 F for filing the appeal before Tribunal; That the Adjudicating Authority though, has sanctioned the refund but not granted applicable interest and pre-deposits in terms of, section



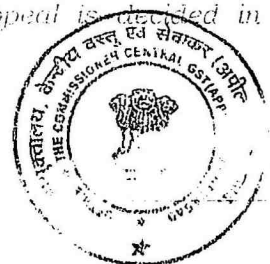
35 FF of the Central Excise Act. He submitted that the reason for not sanctioning interest by the Adjudicating Authority in para 16 is not applicable in case of pre-deposits under section 35 F. Therefore, he requested to sanction the interest on the refund granted as per the provisions in the law.

3.1. Subsequent to the transfer and posting of Commissioner, the appellant was once again given opportunity for Personal Hearing which was held on 09.01.2024. Shri P. P. Jadeja, Chartered Accountant, appeared for personal hearing. He reiterated the contents of the oral and written submission made earlier and requested to allow their appeal.

4. I have carefully gone through the case, submission made in the appeal memorandum and submissions made during the course of personal hearing and relevant orders. I find that the appellant in the instant case is claiming interest on the amount of refund from the date when the application was initially filed on 19.04.2021 till the date of sanction of refund i.e. 23.01.2023. The issue before me to be decided in the present appeal is whether the impugned order passed by the adjudicating authority, rejecting the interest on sanctioned refund of Rs. 1,10,49,986/- in terms of Section 11B of Central Excise Act, 1944, in the facts and circumstance of the case, is legal and proper or otherwise.

5. The appellant have strongly contended that the adjudicating authority misinterpreted CBEC Circular No. 1053/2/2017-CX dated 10.03.2017. Specifically, they argue that Para 26(i) of the Circular indicates that if an appeal is resolved in favor of the party or assessee, they are entitled to a refund of the amount deposited, along with interest at the prescribed rate, from the date of deposit to the date of refund. I find it necessary to reproduce the relevant para 26(i) of the CBEC Circular No. 1053/2/2017-CX dated 10.03.2017 and Section 35 FF of the Central Excise Act, 1944 for the sake of convenient reference as follows:

26. Refund of pre-deposits-(i) 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.

35FF. Interest on delayed refund of amount deposited under Section 35F.—Where an 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.

5.1. In view of the above provisions, I find both Section 35FF of the Central Excise Act, 1944 and CBEC circular stipulate the allowance of interest from the date of pre-deposit until the date of refund. Accordingly, I find the appellant is allowed on the sanctioned refund claim.

6. In view of above, I hold that the impugned order passed by the adjudicating authority rejecting refund of interest on the sanctioned amount of refund, is not legal and proper and deserve to be set aside. Accordingly, I set aside the impugned order and allow the appeal filed by the appellant.

7. अपीलकर्ता द्वारा दायर अपील का निपटारा उपरोक्त तरीके से किया जाता है।

The appeal filed by the appellant stands disposed of in above terms.

(ज्ञानचंद जैन)
आयुक्त (अपील्स)

Date : .02.2024



Attested

(Signature)
 (अनुराध कुमार)
 अधीक्षक (अपील्स)

सी.जी.एस.टी, अहमदाबाद

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- 1) The Principal Chief Commissioner, Central GST, Ahmedabad Zone
- 2) The Principal Commissioner, CGST, Ahmedabad South
- 3) The Assistant Commissioner, Central GST Division-VIII,
Ahmedabad South
- 4) The Supdt. (Appeal), CGST, Ahmedabad South
(For uploading the Order)
- 5) Guard File
- 6) PA file



