CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH - COURT No. III

Customs Appeal No. 40422 of 2025

(Arising out of Order-in-Appeal Seaport C.Cus. II No.19/2025 dated 06.01.2025 passed by Commissioner of Customs (Appeals-II), 60, Rajaji Salai, Custom House, Chennai 600 001.)

Commissioner of Customs **.... Appellant**
Chennai-II (Import) Commissionerate,
Custom House, 60, Rajaji Salai,
Chennai 600 001.

VERSUS

M/s.Competition Team Technology India Pvt. Ltd. **... Respondent**
600B, 800B, 900, Indo Space Industrial Park,
Oragadam, Block B, Panrutti Village,
Wallajabad Road,
Sriperumbudur 631 604.

APPEARANCE :

Shri Sanjay Kakkar, Authorized Representative for the Appellant
Ms. A. Aruna, Advocate for the Respondent

CORAM :

HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)
HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)

FINAL ORDER No.40487/2026

DATE OF HEARING : 30.01.2026
DATE OF DECISION :13.04.2026

Per Bench :

Brief and relevant facts of this Appeal filed by Revenue against the order of Commissioner of Customs (Appeals-II), Chennai are that the Respondent/Competition Team Technology India Pvt. Ltd. (CTTPL) is engaged in the manufacture of Television sets, for which 'LED Panels' were imported by classifying the same under CTH 90138010, which was disputed by the Revenue. The Respondent, upon each import, appears to have cleared the goods though under CTI 85299090 as insisted by the Revenue by paying duty however, under protest. The above resulted in the litigation which travelled upto Hon'ble Apex Court which confirmed the CTI adopted by the Respondent. In terms of judgment of the Hon'ble Apex Court and in compliance with the directions therein the Revenue appears to have reassessed 919 Bills of Entry and thereafter, the Respondent filed a refund application on 13.06.2024 seeking refund of excess duty paid by them and the same appears to have been sanctioned *vide* Order-in-Original No.10/2024 dt. 24.06.2024, it is a matter of record that the said Order-in-Original was accepted by the Revenue without any challenge.

2. The Respondent thereafter, appears to have made another request for sanctioning of interest as well, since no interest was sanctioned by the sanctioning Authority in the above Order-in-Original. The Adjudicating Authority having considered the above request for interest, however, *vide* Order-in-Original No.25/2024 dt. 31.08.2024 rejected the claim of interest on the refund. A perusal of the said Order-in-Original *inter alia* reveals that the Adjudicating Authority believed that the claim by the Respondent was not covered under the specific provisions under the Customs Act, 1962 which expressly provides for only 4 types of interest to be paid by the Department i.e. (a) **Section 18 (4)** – Interest on account of finalization of provisionally assessed Bill of Entries.

(b) **Section 27A** – Interest on delayed refunds; after 3 months from the date of refund application,

(c) **Section 75A** – Interest on delayed disbursal of drawback,

(d) **Section 129EE** - Interest on delayed refund of amount deposited under Section 129E i.e., pre-deposit. Further, the Adjudicating Authority has also relied on the following decisions :

(i) Judgement dt. 08.11.2023 (in W.P (L) No.24184 of 2023) of Hon'ble High Court Bombay in the case of **The Hongkong and Shanghai Banking Corporation Ltd. vs UOI & Others.**

(ii) **Principal Commissioner Vs Green Valliey Industries Pvt Ltd.** (2023) 10 Centax 117 (Meghalaya)

(iii) Hon'ble Madras High Court judgement in **CCE Chennai Vs UCAL Fuel Systems Ltd.**

(iv) **Sunrise Immigration Consultants Pvt. Ltd. Vs CG & ST Chandigarh (ST Appeal No.60347 of 2022)**

(v) **Fujikawa Power Vs CCE & ST, Chandigarh** [(2024) 16 Centax 310 (Tri.-Chan.)

(vi) Hon'ble Kerala High Court decision in **Sony Pictures Networks India Pvt. Ltd.** 2017 (353) ELT 179 (Ker.)

(vii) **Ebiz. Com. Pvt. Ltd. Vs CCE, Customs & ST [**2017 (49) STR 389 (All.)]

(viii) **Indore Treasure Market City Pvt. Ltd. Vs CGST & CE** [Final Order No.50125/2024 dt. 11.01.2024)]

(ix) **Shahi Exports Ltd. Vs CCE & ST Gurgaon** [Final Order No.60875/2021 dt. 16.08.2021 –CESTAT Chandigarh]

(x) **Gautam Industries Vs CCE & ST (CESTAT Chandigarh)** [Excise Appeal No.60432 of 2020 – CESTAT Chandigarh]

3. Aggrieved by the above rejection order, the Respondent appears to have approached the First Appellate Authority and the First Appellate Authority *vide* impugned Order-in-Appeal C.Cus. II No.19/2025 dt. 06.01.2025, after analysing

various judicial pronouncements on the issue, has allowed the Appeal with a direction to grant refund with an interest at 12% per annum from the date of deposit. It is against this order that the present Appeal has been filed by the Revenue.

4. Heard Shri Sanjay Kakkar, ld. Deputy Commissioner for the Appellant-Revenue and Ms. A. Aruna, ld. Advocate for the Respondent, perused the documents placed on record including the case laws relied upon during the course of arguments. A perusal of the Grounds of Appeal preferred by the Revenue clearly indicate that there is no specific ground challenging the award of interest at 6% however, there is only the prayer to set aside the impugned order and to restore the Order-in-Original. The said prayer therefore is not based on any Grounds of Appeal. Reiterating the grounds urged, Shri Sanjay Kakkar submitted that sanctioning of interest at 12% interest was therefore not in order. He would rely on the following decisions / orders of various judicial Fora :

(i) **Sandvik Asia Ltd. Vs Commissioner of Income Tax And Others** [2006 (1) TMI 55 – Supreme Court = 2006 (196) ELT 257 (SC)]

(ii) **Commissioner of Income Tax, Gujarat Vs Gujarat Fluoro Chemicals** [2013 (10) TMI 117 –Supreme Court (LB) =2013 (296) ELT 433 (SC)]

(iii) **Commissioner of Customs (Exports) Vs M/s.VBC Industries Ltd.** [2011 (4) TMI 142-Madras High Court = 2011 (270) ELT 314 (Mad.)]

(iv) **Chitrahar Traders Vs The Assistant Commissioner (CT), The State of Tamil Nadu –** [2019 (11) TMI 170 – Madras High Court = 2020 (79) GSTR 281 (Mad.)]

(v) Hon'ble Delhi High Court order dt. 05.12.2023 in the case of **CC Vs DD International Pvt. Ltd.** [CUSAA69/2023 & CM APPL.48489/2023 (Stay)

(vi) **CC (Preventive), Odisha Vs M/s.Vedanta Ltd.** - 2025 (5) TMI 1466 – Orissa High Court

(vii) **Sun Pharmaceuticals Industries Ltd. Vs CCE Chennai** [2005 (5) TMI 90 – CESTAT NEW Delhi = 2005 (185) ELT 253 (Tri.-LB)]

(viii) **Hindustan Photo Films Mgf. Co. Ltd. Vs CCE Salem** [2017 (11) TMI 1323 – CESTAT Chennai]

(ix) **Triumph International (India) Pvt. Ltd. Vs CGST & Central Excise, Chennai** [2024 (7) TMI 300 – CESTAT Chennai]

5. *Per contra,* Ms. Aruna, ld. Advocate submitted, at the outset, that the Revenue having accepted the Order-in-Original granting refund in the first place, as a necessary consequence, should have granted interest in terms of Section 27A of the Customs Act, 1962; as per Section 27A, if any duty ordered to be refunded under sub-section (2) of Section 27, the same is not refunded within 3 months from the date of receipt of application then

such Applicant shall be paid interest at rates between 5% to 30% per annum, for the time-frame being fixed by the Central Government by Notification. In the case on hand, the Adjudicating Authority having acknowledged the application for refund with interest, ought to have granted interest as well on the refund in terms of the above provision, which was not complied with. She would also counter the arguments of the Adjudicating Authority that going by the very stand of the Adjudicating Authority in the Order-in-Original that the claim of the Respondent is not covered by any of the 4 provisions mentioned at para-10 of the Order-in-Original, for the argument sake, even the said Section insofar as the granting of interest as notified by the Government is concerned, cannot also to be complied with since Notification No.75/2003 is issued under Section 27A of the Customs Act only. In view of the above, she would invite our attention to various judicial pronouncements which have directed the granting of interest at more than 6% :-

(i) **CC Vs Coronation Spinning India** [2015 (319) ELT 550 (SC)]

(ii) **Principal Commissioner Vs Green Valliey Industries Pvt Ltd.** (2023) 10 Centax 117 (Meghalaya)

(iii) **Indore Treasure Market City Pvt. Ltd. Vs CGST & CE** [Final Order No.50125/2024 dt. 11.01.2024)]

(iv) **Parle Agro Pvt. Ltd. Vs CGST** [2022 (380) ELT 219 (Tri.-All.)

(v) **Continental Engines Pvt. Ltd. Vs Commissioner (Appeals) C.Ex., & CGST Jaipur** [2022 (382) ELT 522 (Tri.-Del.)

(vi) **Fujikawa Power Vs CCE & ST, Chandigarh** [(2024) 16 Centax 310 (Tri.-Chan.)

She would pray for sustenance of the impugned order with a further direction to the Lower Adjudicating Authority to issue interest as directed by the First Appellate Authority forthwith.

6. We have heard the rival contentions and perused the documents on record, we find that the only issue to be decided is, 'whether the impugned order granting a refund of interest at 12% is sustainable?'

7. In respect of the judgments/orders relied upon by Shri Sanjay Kakkar, we find that most of the judgments relate to the granting of interest on interest which is not the case here. In **Triumph International (India) Pvt. Ltd.** *supra*, order of this Bench, this Bench has held that the factual matrices of **Sandvik Asia Ltd.** [2006 (196) ELT 257 SC] are different and further in the very case of **Triumph International (India) Pvt. Ltd.** the ratio laid down is

different since the factual matrix of the case is different. In that case, the exemption to Excise Duty equivalent to CVD by virtue of Notification was claimed whereas in the case on hand the issue relates to classification. Also, the Assessee in that case paid the duty upon being pointed out by the Audit and claimed that the said payment was under pressure and hence under protest, which is not the case here. When the Department chose not to agree with the classification, the Appellant, perhaps in order to safeguard its business interest, agreed with the classification which prompted the Assessee to make the payment under protest for clearance of the goods on which they had made huge investments; as no duty element was quantified at that point of time, hence the same cannot partake the character of payment towards any ascertained duty liability.

8. We find that the dispute as to the classification came to the fore *vide* Order-in-Original dt. 23.02.2018 against which the Assessee i.e. Respondent herein filed an Appeal before CESTAT and CESTAT ruled in favour of the Assessee thereby reversing the Department's classification and, on further Appeal to Supreme Court by the Revenue, the above classification was upheld *vide* judgement dt. 04.10.2023. Though it is the settled position that refund is to be granted

once a decision comes in favour, however, it appears Revenue sanctioned refund *vide* order dt. 24.06.2024 only after an application for the same was filed formally on 13.06.2024. Had the refund been worked out and granted immediately after the passing of the order by CESTAT (dt. 15.01.2021), that would have perhaps frozen the interest clock. What was claimed was the interest on the alleged duty collected without the authority of law, rather contrary to law, it is relevant to note that such payment was not voluntary and hence, the same would become refundable once the stand of the Revenue while insisting for payment stands vacated by a judicial order. Viewed thus, when the refund is automatic, same should also follow with interest since, clearly, the payment was collected very much in advance, right from the dates of import. Had the Hon'ble Supreme Court ruled against the Assessee, then the Department would have charged not only interest but also possibly penalty, but when it comes to payment of refund, what is lost sight of is the dates of deposit from which the Revenue enjoyed the interest and viewed in this context, the Order-in-Original rejecting the very interest claim is certainly draconian. Government cannot retain such deposits especially when the same is held to be without authority of

law when the collection itself is contrary to law. At least as of now, the law does not discriminate between the litigants; the liability is uniform and hence, we are of the view that the impugned Order-in-Appeal has correctly set aside the Order-in-Original.

9. We also draw support from the ratio laid down in the case of **Parle Agro Pvt. Ltd. Vs Commissioner** [2022 (380) ELT 219 (Tri.-All.)], where the coordinate Allahabad Bench was seized of almost a similar dispute where the tax payer had claimed interest from the date of deposit at a higher rate of interest. The Bench after considering the pronouncements of various higher judicial Fora, had held as under :

> **"30.** In the present case, the provisions of Section 11B of the Excise Act would not be applicable. This is for the reason that the appellant was not claiming refund of duty. The applicant, as noticed above, had claimed refund of the revenue deposit. Such a finding has also been clearly recorded by the Tribunal in the order dated 31-1-2017, which order has attained finality."

Further, after recording developments in law as guided by various Notifications of the Government in this regard, the court held as under :

> **"39.** In this connection reference can also made to the decisions of the Allahabad High Court in *Pace Marketing Specialities* and *Ebiz.Com Private Limited,* wherein after making reference to the decision of the Supreme Court in *Sandvik Asia Ltd.*, the High Court granted interest at the rate of 12% per annum in matters

> relating to refund of amount deposited during investigation and adjudication.
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> **40.** In *Riba Textiles*, the Tribunal also granted interest at the rate of 12% on refund of amount deposited during investigation and at the time of entertaining the stay application.
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> **41.** In view for the aforesaid decisions, and the fact that the rate of interest varies from 6% to 18% in the aforesaid Notifications issued under Sections 11AA, 11BB, 11DD and 11AB of the Excise Act, the grant of interest @ 12% per annum seems to be appropriate."

10. Further, we also note that coordinate Delhi Bench in the case of **Continental Engines Pvt. Ltd. Vs Commissioner (Appeals) Jaipur** *supra* has also followed the ratio of various decided cases, to award interest at 12%.

11. We also find that even the Hon'ble High Court of Meghalaya in its judgement in the case of **Principal Commissioner of CGST Vs Green Valliey Industries Pvt. Ltd.** [(2023) 10 Centax 117 (Meghalaya)], has upheld the order of Tribunal wherein the coordinate Bench had awarded 12% interest.

12. We find that even in the Order-in-Original, the Adjudicating Authority though has recorded various judicial precedents ruling the field despite his observation that there was no provision under the statute, has however chose not to follow, while the First Appellate Authority after going

through the decisions, felt it proper to follow and hence, has allowed the claim of the Respondent by awarding interest at 12%. We, therefore, considering the ratio of various decisions, do not find any infirmity in the impugned order. In fact, the Hon'ble Supreme Court in the case of **Commissioner of Customs (Port) Vs Coronation Spinning India** *supra* has itself allowed granting of 12% interest on the amount of duty deposited. It is also a relevant fact to observe here that *vide* Order-in-Original No.10/2025 dt. 09.05.2025 the Revenue has partially accepted the impugned order by granting interest, however, restricting the same to 6%. It is ascertained during the course of hearing that both the parties have accepted the said order without filing any further Appeal against the Order-in-Original dt. 09.05.2025.

13. We also find that Hon'ble Bombay High Court in the case of in the case of **M/s.Ajay Industrial Corporation Ltd. Vs Deputy Commissioner of Customs, CRC-I, JNCH, Nhava Sheva**, *vide* its Order dt. 15.10.2024 in W.P. No.13314 of 2024 while relying on the decision of Madras High Court in **Global United Shipping (P) Ltd. Vs Assistant Commissioner of Customs (Refund)** has observed as under :

"**25**. The decision of the Madras High Court in **Global United Shipping India (P) Ltd. Vs. Assistant Commissioner of Customs (Refund)** [Writ Petition No.17506 of 2019 decided on 15 October 2019]]] also supports the petitioner's case. In the context of the provisions of Section 27 and 27A of the Customs Act, it holds that the intention of the legislature clearly spelt out in the above provision of law was that the interest was liable to be paid after the expiry of three months from the date of receipt of the application for refund and not from the date of passing of the order of refund. The court held that the object behind such provision for the payment from the date of the application was obvious. Once an order of refund is made, the liability to pay the same dates back from the date of its collection. In other words, an amount collected by Revenue without the authority of law or by the erroneous application of the provision of law, if retained by the Revenue all along without having any legal right to retain the same, such collection and retention would amount to unjust enrichment. Thus, liability to return or refund to the person from whom it was collected commences on the day it was demanded and collected. Therefore, when the liability to refund is determined, such liability dates back and commences not from the date of the order for refund but from the date of such collection. Liability to refund begins when it was actually due and not when it is actually determined.

26. The Madras High Court noted that the adjudicating authority imposes interest and penalty on such duty liability when adjudicating the liability. It is not that such duty alone is collected from the importer from the date of adjudication. On the other hand, such liability to pay duty is fastened on such importer from when it becomes due. Therefore, the revenue collects the interest on such overdue duty payments and the penalty for not paying them at the appropriate

> time. The same analogy is to be applied in the case of a refund while considering the interest payment. That is why Section 27A of the Customs Act was carefully coined for payment of such interest from the expiry of three months from the date of the application and not from the date of the order."

14. Further, we also have the benefit of Final Order of Principal Bench in the case of **Indore Treasure Market City Pvt. Ltd. Vs CGST & Central Excise** *vide* Final Order No.50125/2024 dt. 11.01.2024 (in Service Tax Appeal No.55434 of 2023), wherein the Bench has relied on the Final Order of co-ordinate Chandigarh Bench in the case of **Fujikawa Power and other Vs CCE Chandigarh-I** [*vide* Final Order No.61041-61042/2019 dt. 26.11.2019], wherein it is observed as under :

> "**19**. Further, the interest on the refund shall be payable @ 12% per annum as held by Hon"ble Kerala High Court in the case of Sony Pictures Networks India Pvt.Ltd.-2017 (353) ELT 179 (Ker.) wherein it has held as under:-
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> > "14. Now, the sole question remains to be considered is what is the nature of interest that the petitioner is entitled to get. As discussed above in the judgment Commissioner of Central Excise v. ITC (supra), the Apex Court confined the interest to 12% and further held that any judgment/decision of any High Court taking contrary view, will be no longer good law. The said judgment is rendered, in my considered opinion under similar circumstances. So also in

Kuil Fire Works Industries v. Collector of Central of Excise [1997 (95) E.L.T. 3 (S.C.), the pre-deposit made by the assessee was directed to be returned to him with 12% interest. I have also come across the judgment of the Calcutta High Court in Madura Coats Pvt. Ltd. v. Commissioner of C. Ex., Kolkata-IV [2012 (285) E.L.T. 188 (Cal.), wherein the peremptory directions of the Apex Court in the judgment of ITC Ltd. (supra) was considered and ordered 12% interest, and further held that when the High Court directed the respondents to pay interest to the appellant in terms of the circular dated 8-12-2004 on the pre-deposit of the delayed refund within two months, it has to be construed that, the Court meant the rate of interest which was awarded by the Supreme Court in the case of Commissioner of Central Excise v. ITC Ltd., which was the rate quantified by the Supreme Court in the absence of any statutory provisions in the Act in question. Even though various other judgments of various High Courts and the various Tribunals was brought to my notice awarding 15% interest, in view of the directions contained in the judgment of the Apex Court in Commissioner of Central Excise v. ITC Ltd. (supra) rate of interest is to be confined to 12%. I am also bound to follow the same. Therefore the interest that is liable to be paid by the respondents as per the 8 Excise Appeal No. 60446 of 2018 directions of this Court in Ext. P12 judgment is fixed at 12% per annum. 15. Taking note of the compendious circumstances and reckoning the law, there will be a direction to the respondents to pay interest to the petitioner at 12% from the date of expiry of three months from 1811- 2002, to the amount of refund already made, within a month from the date of receipt of a copy of this judgment, after adjusting any interest paid."

15. This apart, going by the conclusion drawn by the Adjudicating Authority while rejecting the claim of the Respondent for interest wherein he has held that there is no provision under the Act to provide interest so claimed by the Respondent under Section 27A, we note that Notification No.75/2023 *supra* as contended by the Ld. Advocate, is issued very much under Section 27A *ibid* wherein, 6% interest is prescribed and hence, going by the very arguments of the Adjudicating Authority, if there is no provision for granting interest, then it takes the colour of compensation and hence, we have to go only by the law as interpreted by constitutional courts and the lead decision of Hon'ble Supreme Court in the case of **Commissioner of Central Excise, Vs ITC Ltd.** [2005 (179) ELT 15 (SC)]. Hence, according to us, either way the Department having enjoyed the fruit right from the date of deposit cannot refuse to grant interest on such deposits by whatever name it is called. It is also to be noted that as observed by the Hon'ble Kerala High Court as extracted by Chandigarh Bench, the Hon'ble Supreme Court in the case of **CCE Vs ITC Ltd.** (*supra*), has ordered 15% interest.

16. In view of the above settled position of law, we do not find any infirmity in the impugned order and hence, we dismiss the Appeal.

(Order pronounced in open court on 13.04.2026)

sd/-	sd/-
(VASA SESHAGIRI RAO)	**(P. DINESHA)**
Member (Technical)	Member (Judicial)

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