

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHENNAI**

REGIONAL BENCH - COURT No. I

Customs Appeal No.42467 of 2015

(Arising out of Order-in-Appeal C.Cus II No.982/2015 dated 30.10.2015 passed by Commissioner of Customs (Appeals-II), Chennai)

M/s. Tarajyot Polymers Ltd.

37/12-1, Archana Complex,
4th Cross, Lalbagh Road,
Bangalore-560 027.s

.... Appellant

VERSUS

Commissioner of Customs,

Custom House,
No.60, Rajaji Salai,
Chennai-600 001.

... Respondent

APPEARANCE :

Ms. Suja A.K., Advocate for the Appellant

Ms. K. Vijaya Sree, Authorized Representative for the Respondent

CORAM :

HON'BLE MR. A.K. JYOTISHI, MEMBER (TECHNICAL)

FINAL ORDER No.40846/2026

DATE OF HEARING : 01.07.2026

DATE OF DECISION :01.07.2026

Per: Shri A.K. Jyotishi

M/s. Tarajyot Polymers Ltd. (hereinafter referred to as the appellant) are in appeal against the Order-in-Appeal No. No.982/2015 dated 30.10.2015 (impugned order) whereby, their

appeal against rejection of the refund claim by the Original Refund Sanctioning Authority (RSA), was rejected by Commissioner (Appeal).

2. Brief facts of the case is that the appellant had filed refund claim before the concerned Refund Sanctioning Authority (RSA) on the grounds that they had paid applicable customs duty on import twice in respect of Bill of Entry No.714344 dated 09.12.2010. RSA examined the documents and the grounds and held that since the duty was paid on 10.12.2010 and the claim for refund was made on 11.07.2012, which is beyond one year, therefore, the claim is clearly time barred. Thereafter, the claim was rejected on the sole ground of time bar without getting into other aspects of the claim.

3. On appeal, the Commissioner (Appeal) observed that when the payment of double duty itself cannot be verified or confirmed, in such circumstances, there is no situation for looking into the issue of limitation. The relevant observation of the Commissioner (Appeal) in the impugned order is at para 9, cited below, for ease of reference.

The issue in hand is that the payment itself cannot be verified and confirmed. In such a circumstances, there is no situation for looking into the issue of limitation. It is seen the LAA has written to PAO calling for verification and confirmation of the In the payment. But the PAO has pleaded inability to confirm the same. circumstances, the LAA could have as well rejected the claim on the reason of non confirmation of the payment rather than limitation.

4. The learned advocate has mainly contested that the first refund claim was filed on 02.06.2011 along with necessary documents claiming refund for Rs.5,94,294/-. However, once they did not get any response from the Assistant Commissioner Customs (refund), by way of abundant precaution, they again filed the claim on 25.05.2012, which has apparently been examined by RSA and held to be time bar. She also submits that there is a Chartered Accountant's certificate clearly mentioning and certifying double duty payment in respect of the same bill of entry. The same certificate has also certified that in this case, this additional (double duty) paid by them was not factored into their cost and therefore the duty burden was not passed on further to customers.

5. Learned AR, on the other hand reiterates the findings of the Commissioner (Appeal) and points out that Commissioner (Appeal) has rightly held that in the event of doubt about the payment of duty itself, issue of limitation is of no significance or consequence.

6. Heard both sides. I find that the core issue, that has to be decided in this appeal, is whether the refund application was filed on 02.06.2011 or on 25.05.2012. In this case the RSA has not commented anything about the refund application dated 02.06.2011, which is clearly within the time limit. I also find merit in submission of Ld. Advocate that on the strength of the same application, they were already granted refund of SAD which would

support the view that application was received by the Department. This aspect of date of first application is crucial because there is no evidence on record as to whether the said application was received in the department or by RSA or otherwise. Moreover, the appellant has also not produced any evidence in support of it's being received by Department. I find that if the said application has been received in the department, but it was either not acknowledged or not processed by the department, in that event the date of said application has to be reckoned as the relevant date for the purpose of limitation and in that event, the refund will be within the time limit and not hit by time bar.

7. However, in so far as Commissioner (Appeals)'s observation is concerned, I find that he has gone beyond the scope of the original order, where he has observed that the issue of limitation is of no consequence when the proof of payment itself has not been established or verified. I find that this observation was unwarranted and there was no need to decide or reject the appeal on this ground that the payment verification has not been made when it was never discussed or disputed specifically by RSA while rejecting the refund claim. I also note that the refund claim has been rejected on the grounds of limitation, therefore, the Refund Sanction Authority had no occasion to examine the provisions of Section 27 of Customs Act in so far as it relates to undue enrichment, which will be clearly attracted and the appellant has

to clear the bar of undue enrichment based on evidence to be produced by them before RSA.

8. Therefore, I find that the order of the Commissioner (Appeal) cannot be sustained and is accordingly set aside. The entire matter is now remanded back to the RSA, who shall give an opportunity to the appellant within a period of two months and decide the matter in view of observations, supra, subject to appellant producing necessary evidence of having paid the amount to the Government twice. He will also be free to examine it from the angle of undue enrichment, because the same is a statutory requirement for allowing any refund in terms of Section 27 of Customs Act, 1962.

9. With these directions, the appeal is allowed by way of remand to the Original Refund Sanction Authority.

(Order dictated and pronounced in the open court)

sd/-

(A.K. JYOTISHI)
Member (Technical)