IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, KOLKATA

REGIONAL BENCH – COURT NO.2

Customs Appeal No.75813 of 2025
Cross Objection No.C/Cross/75348 of 2026

(Arising out of Order-in-Appeal No.Kol/Cus(Port)/KS/564/2024 dated 27.09.2024 passed by Commissioner (Appeals) of Customs, Kolkata)

Commissioner of Customs (Port), Kolkata
(15/1, Strand Road, Kolkata-700001)

Appellant

VERSUS

M/s Uma Export Limited
(Flat No.16,1st Floor,Ganga Jamuna Apartment, 28/1, Shakespeare Sarani, Kolkata-700017)

Respondent

APPERANCE :

Shri Subrata Debnath, Authorised Representative for the Appellant
Shri R.N.Bandyopadhyay, Advocate, Ms.Sukanya Roy, Consultant & Ms.Rupsha Chatterjee, Advocate for the Respondent

CORAM:
HON'BLE MR.R.MURALIDHAR, MEMBER (JUDICIAL)
HON'BLE MR.K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO.76045/2026

DATE OF HEARING : 22 JULY 2026

DATE OF PRONOUNCEMENT : 07 AUGUST 2026

Per R.Muralidhar :

The Revenue has filed this Appeal being aggrieved by the Order-in-Appeal No.Kol/Cus(Port)/KS/564/2024 dated 27.09.2024. The respondent sought a copy of the Appeal Memorandum filed by the Revenue to enable them to file the Cross Objection. The same was granted subsequently. Accordingly, they have filed Cross Objection being Cross Objection No.C/Cross/75348 of 2026. The Appeal as well as Cross Objection have been taken up together for disposal with the consent of both sides.

Customs Appeal No.75813 of 2025

2. The Ld.A.R. appearing on behalf of the Revenue, submits that the Revenue is aggrieved by the Order-in-Appeal No.Kol/Cus(Port)/KS/564/2024 dated 27.09.2024, wherein the Ld. Commissioner (Appeals) has taken the letter dated 08.03.2024 issued by the Asst Commissioner of Customs, Appraising Refund Section (Port), Kolkata, as an appealable order and entertained the same to grant interest sought for by the Respondent. He submits that the refund of the differential Customs Duty was granted to the respondent vide Order-in-Original No.Kol/Cus/DC/939/ARS/2021 dated 23.02.2021. If the respondent was aggrieved by the fact that no interest was paid to them, they should have filed appeal before the Ld.Commissioner (Appeals), but they have not done so. Subsequently, they have filed the appeal before the Commissioner (Appeals) based on the letter dated 08.03.2024 and sought interest. The Ld.A.R. for the Revenue submits that it is not a proper appealable order issued by the Adjudicating authority and therefore the Ld. Commissioner (Appeals) is an error for entertaining the said letter as an appealable order.

3. The Ld. Counsel appearing on behalf of the respondent, submits that at the time of granting the refund, the respondent was asked to give an undertaking that they would not claim any interest for the differential Customs Duty refund amount to be granted to them. Since the amount of refund was for more than Rs.4.99 Crores, the respondent submitted such letter. Subsequently, after the Final Order No.777256-777262/2023 dated 12.10.2023 was passed by the Tribunal allowing the appeal filed by the appellant, they filed a letter seeking interest on

the refund amount. For this, the Asst Commissioner of Customs, Appraising Refund Section (Port), Kolkata , had sent a letter dated 08.03.2024 stating that the respondent may approach any higher forum for remedy as per law. Therefore, the present respondent has correctly treated the said letter dated 08.03.2024 as an appealable order and filed the appeal before the Commissioner (Appeals). He further submits that the Commissioner (Appeals) has correctly taken this letter itself as an appealable order and has passed the order granting refund. Subsequent to the order-in-appeal dated 27.09.2024, the refund of interest has been granted vide Order-in-Original No.Kol/Cus/AC/ARS(Port)/402/2025 dated 25.03.2025 and an amount of Rs.54,70,905/- has been granted as interest, which has been calculated @ 6% for the refund granted to the respondent. Therefore, it is prayed that the appeal filed by the Revenue may be dismissed.

4. Coming to the cross-objections filed by the Respondent, the Ld. Counsel submits that the Tribunals and the Hon'ble High Court have been consistently holding that the interest for the amount deposited in the course of investigation is to be granted @ 12% per annum.

5. The Respondent relies on various decisions passed by the Kolkata Bench and also on the following decision of the Punjab and Haryana High Court and Delhi Bench, wherein 12% interest is directed to be allowed:

2022 (62) G.S.T.L. 136 (P & H)
COMMISSIONER OF CENTRAL EXCISE,
PANCHKULA

Vs RIBA TEXTILES LTD.

2022 (380) E.L.T. 219 (Tri.-All)
PARLE AGRO PVT. LTD.
Vs COMMISSIONER, CGST, NOID

6. Therefore, the Ld. Counsel for the respondent prays that the interest granted may be enhanced from 6% to 12% and accordingly, allow the cross-objections filed by the respondent.

7. In his rejoinder, the ld.A.R. for the Revenue submits that the the enhancement of interest from 6% to 12% may not be entertained, as even as per the provision under Pre-deposit the percentage of interest is 6% only.

8. Heard both the sides. Perused the appeal papers and the documentary evidence placed before us.

9. We find that the Commissioner (Appeals) vide the impugned OIA has allowed the appeal filed by the present appellant and has held that the interest is required to be granted. The Commissioner (Appeals) has considered the factual details of the case while entertaining the appeal. We find that the appellant has been following up right from March 2018 onwards for re-assessment of Bills of Entry with several communication by way of letters. Refund claims have been filed but were rejected on account of non-finalization of the assessment. Considering the overall factual details, we find that the decision of the Commissioner (Appeals)

is actually following the principles of natural justice to grant the interest to the appellant.

10. We also find that consequent to the OIA passed by the Commissioner (Appeals), the interest has been granted vide the OIO dated 25.03.2025, taking into account the fact the Tribunal has granted consequential relief and the Commissioner (Appeals) has directed the interest to be granted.

11. In view of the foregoing, we do not find any merits in the appeal filed by the Revenue. Hence, the appeal filed by the Revenue stands rejected.

12. The Respondent has filed cross-objection seeking the interest @ 12% as against the interest of 6% granted by Commissioner of Appeals. We have gone through the cited case law, from which the relevant paras are reproduced below:

2022 (62) G.S.T.L. 136 (P & H)
COMMISSIONER OF CENTRAL EXCISE, PANCHKULA
Vs RIBA TEXTILES LTD.

"9. *While deciding the issue of interest, Ld. Tribunal has relied upon the law laid down by the Apex Court in Sandvik Asia Ltd. v. CIT, Pune - 2007 (8) S.T.R. 193 (S.C.) wherein it was held that :-*

"45. The facts and the law referred to in paragraph (supra) would clearly go to show that the appellant

was undisputably entitled to interest under Sections 214 and 244 of the Act as held by the various High Courts and also of this Court. In the instant case, the appellant's money had been unjustifiably withheld by the Department for 17 years without any rhyme or reason. The interest was paid only at the instance and the intervention of this Court in Civil Appeal No. 1887 of 1992, dated 30-4-1997. Interest on delayed payment of refund was not paid to the appellant on 27-3-1981 and 30-4-1986 due to the erroneous view that had been taken by the officials of the respondents. Interest on refund was granted to the appellant after a substantial lapse of time and hence it should be entitled to compensation for this period of delay. The High Court has failed to appreciate that while charging interest from the assessee, the Department first adjusts the amount paid towards interest so that the principal amount of tax payable remain outstanding and they are entitled to charge interest till the entire outstanding is paid. But when it comes to granting of interest on refund of taxes, the refunds are first adjusted towards the taxes and then the balance towards interest. Hence as per the stand that the Department takes they are liable to pay interest only upto the date of refund of tax while they take the benefit of assessee's funds by delaying the payment of interest on refunds without incurring any further liability to pay interest. This stand taken by the respondents is discriminatory in nature and thereby causing great prejudice to the lakhs and lakhs of assessees. Very large number of assessees are adversely affected inasmuch as the Income Tax Department can now simply refuse to pay to the assessees amounts of interest lawfully and admittedly *due to that as has happened in the instant case. It is a case of the appellant as set out above in the instant case for the assessment year 1978-79, it has been deprived of an amount of Rs. 40 lakhs for no fault of its own and exclusively because of the admittedly unlawful actions of the Income Tax Department for periods ranging up to 17 years without any compensation whatsoever from the Department. Such actions and consequences, in our opinion, seriously affected the administration of justice and the rule of law.*

COMPENSATION :

46. The word 'Compensation' has been defined in P. Ramanatha Aiyar's Advanced Law Lexicon 3rd Edition 2005 page 918 as follows :

> *"An act which a Court orders to be done, or money which a Court orders to be paid, by a person whose acts or omissions have caused loss or injury to another in order that thereby the person damnified may receive equal value for his loss, or be made whole in respect of his injury; the consideration or price of a privilege purchased; something given or obtained as an equivalent; the rendering of an equivalent in value or amount; an equivalent given for property taken or for an injury done to another; the giving back an equivalent in either money which is but the measure of value, or in actual value otherwise conferred; a recompense in value; a recompense given for a thing received recompense for the whole injury suffered;*

> *remuneration or satisfaction for injury or damage of every description; remuneration for loss of time, necessary expenditures, and for permanent disability if such be the result; remuneration for the injury directly and proximately caused by a breach of contract or duty; remuneration or wages given to an employee or officer."*

47. There cannot be any doubt that the award of interest on the refunded amount is as per the statute provisions of law as it then stood and on the peculiar facts and circumstances of each case. When a specific provision has been made under the statute, such provision has to govern the field. Therefore, the Court has to take all relevant factors into consideration while awarding the rate of interest on the compensation.

48. This is the fit and proper case in which action should be initiated against all the officers concerned who were all in charge of this case at the appropriate and relevant point of time and because of whose inaction the appellant was made to suffer both financially and mentally, even though the amount was liable to be refunded in the year 1986 and even prior to. A copy of this judgment will be forwarded to the Hon'ble Minister for Finance for his perusal and further appropriate action against the erring officials on whose lethargic and adamant attitude the Department has to suffer financially.

49. By allowing this appeal, the Income-tax Department would have to pay a huge sum of money by way of compensation at the rate specified in the

Act, varying from 12% to 15% which would be on the high side. Though, we hold that the Department is solely responsible for the delayed payment, we feel that the interest of justice would be amply met if we order payment of simple interest @ 9% p.a. from the date it became payable till the date it is actually paid. Even though the appellant is entitled to interest prior to 31-3-1986, Learned Counsel for the appellant fairly restricted his claim towards interest from 31-3-1986 to 27-3-1998 on which date a sum of Rs. 40,84,906/- was refunded.

50. The assessment years in question in the four appeals are the assessment years 1977-78, 1978-79, 1981-82 and 1982-83. Already the matter was pending for more than two decades. We, therefore, direct the respondents herein to pay the interest on Rs. 40,84,906 (rounded of to Rs. 40,84,900) simple interest @ 9% p.a. from 31-3-1986 to 27-3-1998 within one month from today failing which the Department shall pay the penal interest @ 15% p.a. for the above said period."

9. *It is not disputed that the provisions of Income-tax Act, 1961 and Central Excise Act, 1944 are pari materia and, therefore, law laid down by the Supreme Court in the case of Sandvik Asia Ltd. (supra) shall be applicable to the present case.*

10. *Ld. Counsel for the appellant is not in a position to deny the proposition of law laid down in the case of Sandvik Asia Ltd. (supra) and the applicability thereof to the facts of the present case.*

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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.

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.

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."

13. We find that in Riba judgement has followed the Supreme Court's decision in the case of Sandvik Asia and Parle case law has followed Riba judgement.

14. Recently this Kolkata Bench in the case of **Berger Paints India Ltd Vs CC Appeal No.C/75631/2026, vide Final Order No.75927/2026 dated 22.07.2026**, has held as under :

"5.1. We find that the Appellant has relied upon the decision of the Hon'ble Calcutta High Court in the case of ***Rajendra Kumar Jain Vs Commissioner of Customs (Port), Kolkata & Others, wherein vide order dated 09.05.2024****, the Hon'ble High Court has set aside the order of this Tribunal granting interest @6% and has categorically held that interest @12% is payable on delayed refund of the amount deposited during the course of Investigation. We have gone through the Order passed by the Hon'ble High Court. In that case, the department has paid interest @6% while refunding the amount deposited during the course of investigation. On appeal, the Hon'ble High Court has categorically held that there is no statutory provision available at present fixing the rate of interest for the refund of the amount deposited during investigations. Till such time a statutory provision granting interest is notified in law, interest @12% is payable. For ready reference, the relevant portion of the order passed by the Hon'ble High Court is reproduced below:*

9. Learned senior standing counsel for the respondents now states that the Government of India, Ministry of Finance (Department of Revenue), New Delhi has issued a notification No. 70/2014/Customs (N.T.) dated 12.08.2014 in exercise of powers conferred under Section 129EE of the Customs Act, 1962 fixing the rate of interest @ 6% per annum for the purposes of the said Section and, therefore, the same rate of interest is applicable. We do not find any substance in this submission of learned senior standing counsel for the respondents. Reason is that the said notification is dated 12.08.2014. The rate of interest on delayed refund of pre-deposit shall be governed by the law laid down by Hon'ble Supreme Court in ITC Limited (supra) as well as a coordinated Bench of this Court in Madura Coats Private Limited (supra) till a statutory provision in the Act was enacted and a notification was issued thereunder providing for rate of interest on delayed refund of pre-deposit. With effect from the date on which the provision came in the statute, it shall hold the field and the *rate of interest shall be governed by it. Since the period in question is prior to the notification providing for rate of interest on delayed refund of pre-deposit, issued under the Act, therefore, the case of the appellant shall be governed by the law laid down by the coordinate Bench of this Court in Madura Coats Private Limited (supra).*

5.2. From the decision of the Hon'ble High Court extracted above, we find that the Hon'ble High Court has categorically held that interest @12% is payable in respect of refund of amount deposited during the course of investigation. In this regard, we find that there are different decisions by various High Courts on the issue of refund of the amount deposited during the course of investigation. However, the decision of the Jurisdictional High is binding on the Tribunals falling within it's jurisdiction, as held by the ***Larger Bench in the case of Collector of Central Excise Chandigarh vs. Kashmir Conductors - 1997 (96) E.L.T. 257 (Tribunal)****, wherein it is held as under:*

"10. The question as to how the Tribunal should proceed in the face of conflicting decisions of High Courts has been considered in M/s. Atma Steels P. Ltd. and others v. Collector of Central Excise, Chandigarh reported in l984 (17) E.L.T. 331 wherein the Larger Bench consisting of five Members held that, in view of its All India jurisdiction and peculiar features, the Tribunal cannot be held bound to the view of any one of the High Courts, but has the judicial freedom, to consider the conflicting views, reflected by different High Courts, and adopt the one considered more appropriate to the facts of a given case before the Tribunal. The Tribunal also indicated that this should be so, irrespective of the fact whether one particular assessee was within the jurisdiction of a specified High Court or the original adjudicating authority was located there.

10.2 In a recent decision of the Tribunal in the case of Madura Coats v. CCE, Bangalore reported in 1996 (82) E.L.T. 512, it has been held that the decision of a particular High Court should *certainly be followed by all authorities within the territorial jurisdiction of that High Court and that the authorities in another State are not bound to follow the views taken by a particular High Court in the absence of a decision by the jurisdictional High Court with regard to constitutionality of a provisions. The Tribunal has held that since the adjudication of vires of a provision of a statute or Notification is outside the jurisdiction of the Tribunal and the jurisdictional High Court i.e., the High Court having jurisdiction over the authority and the assessee, has not struck down the provision or Notification as ultra vires, the Tribunal has to follow the same and the assessee is entitled to take the stand that he is entitled to the benefit of the particular provision or Notification since the jurisdictional High Court has not struck it down, even though some other High Court may have done so. In case the conflict of decisions among High Courts does not relate to vires of any provision or Notification, it has been held that the Tribunal has to proceed in accordance with the decision in Atma Steels P. Ltd. in the light of the decision of Supreme Court in the East India Commercial Company case i.e. where the jurisdictional High Court has taken a particular view on interpretation or proposition of law, that view has to be followed in cases within such jurisdiction. If the jurisdictional High Court has not expressed any view in regard to the subject matter and there is conflict of views among other High Courts, then the Tribunal will be free to formulate its own view in the light of Atma Steels P. Ltd. case; however, there is a decision of only one High Court in regard to disputed interpretation or proposition of law, the Tribunal is bound to follow that order since it is not at liberty to disregard the solitary High Court decision."*

Thus, respectfully following the decision of the Larger Bench, we hold that the decision of the Hon'ble Calcutta High Court dated 09.05.2024, in the case of the case of Rajendra Kumar Jain Vs Commissioner of Customs (Port), Kolkata & Others, is squarely applicable to the facts and circumstances of this case.

Accordingly, we hold that the Appellant is eligible for interest @12% in this case. Thus, we hold that the impugned order sanctioning refund @6% is legally not sustainable and hence we set aside the same.

*6. **In view of the above findings, we hold that the appellant is entitled to the interest @12%, for the refund of the amount deposited during the course of investigation**. The appeal filed by the Appellant is allowed on the above terms."*

(2024) 20 Centax 470 (M.P.)

CGST and Central Excise, Commissioner, Indore Versus Indore Treasure Market City Pvt. Ltd.

"9. The learned CESTAT has decided appeal so filed, vide impugned Final Order No. 50125/2024 dated 11-1-2024 wherein learned CESTAT has allowed the appeal and held that respondent is entitled for the interest on the amount of refund sanctioned at the rate of 12% to be calculated from the date of payment till the date of disbursement.

11. Learned counsel for the appellant contended that the learned CESTAT has erred in coming to the conclusion that the refund claimed by the respondent is governed under section 11 B and 11 BB of Central Excise Act, 1944 (which shall be referred hereinafter as "Act, 1944"), whereas the aforesaid provisions governs such refund of duty amount. In fact the Tribunal failed to consider that such refund is governed under section 11 B of the Act, 1944, since it pertained to refund of duty amount paid by the respondent in compliance of an order of Adjudicating Authority. So also the interest on delay payment of refund is governed by Section 11 B of the Act, 1944. He submits that learned Tribunal has misinterpreted the Apex Court ruling in case of Mafatial Industries Ltd. v. Union of India 1997 (89) EL.T. 247 (S.C.) as well as in the case of Sandvik Asia Ltd v. Commissioner of Income Tax-l, Pune & Ors. AIR 2006 SUPREME COURT 1223 = 2007 (8)

ST.R 193 (S.C.). Learned CESTAT also erred in granting interest @ 12% P.A., since the finding is based without any legal provisions.

12. Learned senior counsel for the respondent and counsel for the intervenor have opposed the prayer and submitted that no substantial question of law arises for adjudication in this appeal. They relied upon the judgment of High Court of Meghalaya at Shillong in the case of The Principal Commissioner of Central Goods and Service Tax v. M/s Green Valley Industries Pvt. Ltd. MC (Central Excise Ap.) No. 1/2023 dated 26/07/2023 [(2023) 10 Centax 117 (Meghalaya)] wherein similar issue has cropped-up and the Court has dismissed the appeal of Revenue. He further relied on the judgment of High Court of Punjab and Haryana at Chandigarh in case of Commissioner of Central Excise, Panchkula v. M/s Riba Textiles Limited CEA No. 8 of 2022 (O&M) dated 14/03/2022 = 2022 (62) G.S.T.L. 136 (PH) wherein also similar issue was raised by the Revenue, has been dismissed. They also submitted that the learned Tribunal has rightly come to the conclusion, therefore, the appeal deserves to be dismissed.

14. In view of the aforesaid discussions and the rival submissions made by learned counsel for the parties, the issues raised in the present appeal is covered by the judgments in the case of M/s Green Valley Industries Pvt. Ltd. (supra) and M/s Riba Textiles Ltd. (supra), therefore, this Court is of the considered opinion that no substantial question of law arises for consideration in the present appeal. The appeal sans merit and is hereby dismissed.

(2023) 10 Centax 117 (Meghalaya)
Principal Commissioner of Central Goods and Service Tax
Versus Green Valliey Industries Pvt. Ltd.

8. In course of the appeal before the CESTAT, several judgments were looked into. By the order impugned dated April 11, 2022, the Tribunal recorded its satisfaction that the refund in this case was not of any duty or interest on duty. Accordingly, the Tribunal found that the assessee was entitled to interest. On the quantum of interest, the Tribunal relied on several Supreme Court, High Court and its own judgments to arrive at a figure of 12 per cent per annum.

11. The Tribunal has given adequate reasons in both the orders impugned, including the order by which the Department's application for correction or modification was rejected. According to the Tribunal, the deposit was made at a time when no quantified claim had been made on the assessee. On such basis, the Tribunal found that the deposit had not been made on account of any duty or interest which would attract the implied bar under section 118 of the Act. It was a puut sible view taken on the set of facts that presented themselves before the Tribunal and, in this appellate jurisdiction. This interpretation does not call for any interference. Further, as to the quantum of interest awarded, the Tribunal, which is specialised body dealing in matters pertaining to excise duty, took into account the previous judgments of the Supreme Court, High Courts and the Tribunal itself to justify that the rate of 12 per cent per annum would apply in the facts of the present case. Again, since there is some basis to the award of interest by the Appellate Tribunal, the same does not call for any interdiction."

15. We find that to the factual matrix of the present case of the Respondent, the above case laws would be squarely applicable. Accordingly, we hold that they would be eligible for interest @ 12% as

against the interest of 6% already granted by the Adjudicating authority.

16. The appellant Revenue in their appeal has not challenged the period for which the interest was held to be eligible by the Commissioner (Appeals) . The importer appellant has sought the interest for even the prior period, that is from the date on which the Customs Duty was paid. We do not subscribe to their view. Therefore, we hold that the period for which the interest is to be paid remains unchanged. For this period (Three months from 30.01.2009 till the date of refund of duty), the Revenue should pay the balance 6% [12% - 6% already paid] and pay the same within 8 weeks from the date of communication of this Order.

17. The appeal filed by the Revenue stands dismissed. The cross-objection filed by the Respondent gets disposed off as per the above terms.

(Pronounced in the open court on **07.08.2026**)

(R.Muralidhar)
Member (Judicial)

(K.Anpazhakan)
Member (Technical)

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