CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL MUMBAI
WEST ZONAL BENCH

CUSTOMS APPEAL NO.87572 OF 2023
CUSTOMS APPEAL NO.86560 OF 2026

[Arising out of Orders-in-Appeal No.913 & 914 (CRC-I)/2023 (JNCH) Appeals dated 23.08.2023 passed by the Commissioner of Customs (Appeals), JNCH Nhava Sheva, Mumbai Zone-II]

COMMISSIONER OF CUSTOMS-NHAVA SHEVA-III
Jawaharlal Nehru Custom House,Nhava Sheva, Dist.-Raigad,
Maharashtra-400707 **Appellant**

Vs.

M/S. SEAL FOR LIFE INDIA PVT LTD
Plot No.17, GIDC Estate Manjusar, Taluka-Salvi, Vadodara,
Gujarat-391775 **Respondent**

Appearance:
Present for the Appellant:Shri C.S.Vinod (AR)
Present for the Respondent:Shri Anil Balani and Ms.Parthvi Mehta, Advocates

CORAM:
HON'BLE MR. AJAY SHARMA, MEMBER (JUDICIAL)

FINAL ORDER NO.85954-85955/2026

Date of Hearing: 06.05.2026/27.07.2026

Date of Decision: 03.08.2026

PER:AJAY SHARMA

These appeal have been filed by Revenue against the impugned Orders-in-Appeal dated 23.8.2023 passed by the Commissioner of Customs (Appeals), JNCH, Nhava Sheva, Mumbai-II, whereby the Orders-in-Original Nos. 758-759/20-21/AM(I) dated 18/19.03.2021 were set aside and it has been held that the refund of the revenue deposit in question is not subject to any limitation and hence not barred by limitation.

2. Although both these appeals have been heard on different dates, but since they are arising from the common impugned order they are being disposed of by this order.

3. The short question that arises for consideration is whether *Extra Duty Deposit (hereinafter referred to as "EDD")* paid in cases of related-party transactions pending final assessment order of imports, partakes the character of a Revenue deposit or of duty? And whether the limitation prescribed under section 27 of the Customs Act, 1962 applies to its refund?

4. The facts are stated in brief as follows. The respondent-importer had filed 69 Bills of Entries for clearance of goods imported from related supplier. The same were assessed provisionally due to value dispute and EDD was collected pending resolution of the dispute. The value dispute was examined subsequently and it was clarified that the declared value was liable to be accepted as transaction value under Rule 3(3)(a) of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and the Bills of Entry were finalised accordingly between December, 2018 to April, 2020.

5. Thereafter the respondent approached the Centralised Refund Cell on 14.1.2020 for refund of EDD paid by them against each Bill of Entry. Deficiency-cum-personal hearing notices were issued calling upon the respondent to submit documents on the questions of unjust enrichment and limitation.

6. For *'unjust enrichment'* the respondent furnished Chartered Accountant's Certificate alongwith Balance sheets. On the question of limitation, the respondent submitted that no

limitation applied to the refund claim. The Deputy/Assistant Commissioner of Customs-the Adjudicating Authorities vide Orders-in-Original dated 18/19.3.2021 rejected the refund claims as time barred in terms of Section 27 ibid. On Appeal, the learned Commissioner (Appeals) vide impugned order dated 23.8.2023 while allowing the appeal, held that the refund claims were not barred by limitation and directed the Centralised Refund Cell (CRC) to process the refund applications of the respondent.

7. I have heard learned Authorised Representative appearing for Revenue and learned counsel appearing for the respondent and perused the case records including the written submissions/synopsis placed on record.

8. Learned Authorised Representative for Revenue, reiterating the grounds taken in the Review Order by the Committee of Commissioners, submitted that the EDD is primarily a payment made towards potential duty liability u/s. 18 ibid and once the assessment is finalised, any excess paid becomes a 'refund of duty' governed by the provisions of section 27 ibid. Few authorities have been placed on record by learned Authorised Representative on the general issue of refund, however, none of them dealt specifically with the refund of EDD and are, therefore, not of any assistance on the issue in hand.

9. Per contra learned counsel appearing for the respondent-importer submits that EDD is not in the nature of duty but is merely a security obtained pending completion of valuation inquiry, and that such deposits are not levied u/s.12 ibid, which

is the charging provision for customs duty. It was further submitted that as per section 18(2) ibid, once assessment is finalised, any excess amount paid is required to be refunded to the importer and that such refund does not depend upon filing of a refund claim, being automatic in nature. Learned counsel further submits that section 27 ibid applies only to refund of 'duty' and interest thereon, and since EDD is not duty, the limitation prescribed therein has no application.

10. Extra Duty Deposit (EDD) under the Customs Act,, 1962 is not a duty of customs by itself. It is a security deposit collected by Customs in specified situations to safeguard revenue where final assessment or compliance with valuation is uncertain. The concept of EDD is not expressly defined in the Customs Act, 1962. It has evolved through CBIC circulars, customs practice, and administrative instructions. EDD is generally called for in situations such as:

- provisional assessment under Section 18 of the Customs Act, where the value, classification, origin, or applicability of an exemption is yet to be finalized;
- cases involving Special Valuation Branch (SVB) investigations into related-party imports; and
- situations where Customs has doubts about the declared value or other particulars and permits clearance subject to furnishing security.

11. Once the assessment is finalized, EDD is refunded if no additional duty is found payable, and is appropriated towards the demand, if additional duty is found payable. The distinction between customs duty and EDD may be summarised thus:-

Customs Duty	Extra Duty Deposit (EDD)
A statutory levy under the Customs Act and Customs Tariff Act	A security deposit, not a statutory levy

Customs Duty	Extra Duty Deposit (EDD)
Payable on assessment	Collected as security pending final determination
Forms part of government revenue	Held until assessment is finalized
Not refundable except to the extent of excess duty paid	Refundable if liability does not arise

12. It has been consistently held by this Tribunal that EDD is merely a deposit and not a duty. A co-ordinate Bench of the Tribunal recently in *Sandvik Mining and Rock Technology India Pvt. Ltd. vs. Commr. of Customs, Ahmedabad; 2025(9) TMI 142-Cestat Ahmedabad* has held that the refund of EDD collected during SVB investigation is required to be made to the importer without attracting any consequences of unjust enrichment or limitation.

13. Similarly, the Hon'ble Madras High Court in *Nithin India Tech Ltd. vs. The Deputy Commr. of Customs (Refund); reported in (2025) 34 Centax 104 (Mad.)* considered whether EDD constitutes customs duty and held that it does not, inasmuch as it is not levied as customs duty u/s. 12 ibid although such deposit remains available for appropriation towards the duty liability after final assessment of the Bill of entry.

14. More recently, the Hon'ble Delhi High Court, while answering similar issue in *Sentec India Company Ltd. vs. Asstt. Commr. of Customs, Delhi; 2026(395) ELT 224 (Del.)* has also held that EDD is not in the nature of customs duty; it is deposited to secure any customs duty that may later be found payable on account of allegation of under-declaration of value. Where, however, no under-declaration is ultimately found, the

very substratum of the deposit of EDD ceases to exist, and the period of limitation prescribed u/s. 27 ibid for refund of customs duty does not apply to its refund.

15. Applying the foregoing principles to the facts of the present case, the EDD collected from the respondent pending finalization of assessment did not partake the character of customs duty. Upon finalization of assessment, with the declared value accepted as the transaction value and no additional duty found payable, the basis of retention of EDD ceased to exist and its refund does not attract the limitation prescribed u/s. 27 ibid.

16. For the reasons recorded above, there is no infirmity it the impugned order passed by the learned Commissioner (Appeals) and the appeals filed by the Revenue are dismissed accordingly.

(Pronounced in court on 03.08.2026)

(AJAY SHARMA)
MEMBER (JUDICIAL)

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