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

REGIONAL BENCH – COURT NO.2

Customs Appeal No.75641 of 2026

(Arising out of Order-in-Appeal No.Kol/Cus(Port)/DC/234/2026 dated 07.04.2026 passed by Commissioner of Customs (Appeals), Kolkata)

M/s Atcorp Global Pvt. Ltd.
(4B,S.B.Tower, 2nd Floor, 37, Shakespeare Sarani, Kolkata-700017)

Appellant

VERSUS

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

Respondent

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

AND

Customs Appeal No.75647 of 2026

(Arising out of Order-in-Appeal No.Kol/Cus/Port/DC/234/2026 dated 07.04.2026 passed by Commissioner of Customs (Appeals), Kolkata)

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

Appellant

VERSUS

M/s Atcorp Global Pvt. Ltd.
(4B,S.B.Tower, 2nd Floor, 37, Shakespeare Sarani, Kolkata-700017)

Respondent

APPERANCE :
Shri Subrata Debnath, AuthorisedRepresentative 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.76080-76081/2026

DATE OF HEARING: 22 JULY 2026

DATE OF PRONOUNCEMENT : **18 AUGUST 2026**

Per R.Muralidhar :

The Importer-appellant has filed this appeal on the ground that the lower authority has granted interest at the rate of 6% on the sanctioned refund amount of Rs.2,89,56,399/- vide Order-in-Appeal No.Kol/Cus(Port)/DC/234/2026 dated 07.04.2026. They are aggrieved by the fact that the he has not been granted interest at the rate of 12% as granted the Hon'ble High Court and the Tribunal consistently. It is also prayed that the interest should be calculated from the date of payment of duty or from the first application under Section 149 of the Customs Act, 1962.

2. The Revenue has also filed an appeal being aggrieved by the order of the Ld.Commissioner (Appeals), who held that the interest is payable from 20.02.2019. The Ld.A.R. for the Revenue submits that since the re-assessment order was passed on 17.09.2025, the respondent should be allowed interest only from that date.He also opposes the submission of the importer to enhance the interest to 12%.

3. The Ld. Counsel appearing for the appellant submits that the issue pertains to the classification of the Yellow / Green peas imported by the appellant under 5 Bills of Entry during the period December 2017 to February 2018. Initially, the appellant cleared the goods on payment of

the Customs Duty claiming the benefit of 50% of the Basic Duty. After coming to know that the goods in question would be eligible for NIL rate of Customs Duty in terms of Notification No.93/2017 Cus dated 21.12.2017, they filed their request for re-assessment of Duty in terms of this Notification on 18.09.2018, seeking remedy under Section 149 of the Customs Act 1962. Since no response was received towards their request, the appellant filed a Refund claim on 19.11.2018. This refund claim was rejected on the ground that the Bill of Entry was not re-assessed. After this, the case had a long history. The re-assessment was kept in abeyance by the Revenue for many years and finally the re-assessment Order granting the benefit of the exemption Notification No.93/2017 Cus dated 21.12.2017 was passed on 17.09.2025 / 28.10.2025. After this, Refund Order No. 193/2025 dated 01.12.2025 was passed and an amount of Rs. 2,89,56,399.00 was sanctioned without interest. The appellant preferred an appeal before the Commissioner of Customs (Appeal) who passed the OIA No. KOL/CUS (PORT)/DC/234/2026 dated 07.04.2026 allowing the refund of interest @ 6% from the expiry of three months from the initial refund application till the date of actual disbursement of the refund amount. Since he has granted interest of only 6%, the appellants have filed the present appeal seeking interest @ 12%.

4. The appellant 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, NOIDA

(2024) 20 Centax 470 (M.P.)
CGST and Central Excise, Commissioner, Indore
VersusIndore Treasure Market City Pvt. Ltd.

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

5. Therefore, the Ld. Counsel for the appellant prays that the interest granted may be enhanced from 6% to 12% and by allowing the appeal filed by the importer.

6. The Ld. A R appearing on behalf of the Revenue submits that the re-assessment has taken place only on 17.09.2025. Therefore, the interest is

required to be calculated only for delay, if any, after three months from this date. He submits that the Commissioner (Appeals) is in error in holding that the appellant is required to be granted the interest from 20.02.2019. Further, he submits that even as per the provisions of pre-deposits, the interest to be granted for the refund is to the extent of 6% only. Therefore, he prays that the appeal filed by the Revenue may be allowed and the appeal filed by the importer may be dismissed.

7. In the rejoinder, the Ld. Counsel appearing for the importer, submits that the chronological history of the case would clarify that the appellant has been pressing for re-assessment right from 2018 onwards.They have filed the refund claim in the year 2019 itself. Once, the Tribunal has decided the issue in favour of the importer about the classification and applicability of the exemption Notification, unless it is overturned by the Supreme Court [which incidentally dismissed the SLP filed by the Revenue on this issue], the lower authorities were bound to re-assess the B/E accordingly. The re-assessment is required to be taken as if the same is effective from the date when the initial B/E was presented. Hence, he justifies the refund granted by the Commissioner (Appeals) with effect from 20.02.2019. He submits that as a matter of fact, the appellant should be made eligible for the interest from time the request for re-

assessment was made on 18.09.2018. Accordingly, he prays that the appeal filed by the Revenue may be dismissed.

8. Heard both the sides and considered their submissions.

9. It would be pertinent to go through the chronological table of the case history, which is as per the following Table:

Event / Description	Reference / Details	Date
Import of Goods	3521.74 MT of Yellow Peas imported (Bills of Entry) 4584040 5243763 4682024 4556560 4500090	 27.12.2017 16.02.2018 04.01.2018 26.12.2017 21.12.2017
Excess Duty Paid under Mistake	Paid 50% BCD instead of NIL Excess BCD: ₹8896163 Excess BCD: ₹2241182 Excess BCD: ₹8885252 Excess BCD: ₹222814 Excess BCD: ₹8710988	 29.12.2017 19.02.2018 05.01.2018 05.01.2018 22.12.2017
Application for re-assessment of Bill of Entry	Filed under Section 149 (SevottamReceiptNo. 0015211) **[the same was not dealt with]**	18.09.2018
1st Refund Application made	Filed under Section 27 (SevottamReceiptNo. 0017538)	19.11.2018
Refund Application Rejected	On the ground that the Bills of Entry was finally assessed	11.01.2019

	[KOL / CUS / AC / 30 / ARS / 2019]	
Importer preferred appeal	Under Section 128	February 2019
Order-in-Appeal	**rejected the appeal** vide his Order-in-Appeal No. **KOL/ CUS (PORT)/AA/ 226/2019**	02.04.2019
Reminder letter under Section 149	Submitted reminder letter for re-assessment **[the same was not dealt with]**	28.09.2020
CESTAT Final Order	CESTAT Final Order No. **777256 -777262 /2023** was passed on similar matter for 6 importers	12.10.2023
CESTAT Final Order Accepted	The Final Order passed on the similar issue was accepted by the Commissioner of Customs (Port) with concurrence of the Chief Commissioner of Customs	27.03.2024
Reminder letter under Section 149	Submitted reminder letter for re-assessment vide Sevottam Receipt No. 005275	22.04.2024
Rejected the application for re-assessment	Assistant Commissioner of Customs Appraising Group I vide his **reply having DIN No. 20240576NN000000B93D**	05.05.2024
Importer preferred appeal	Under Section 128	June 2024
Order-in-Appeal	**allowed the appeal** vide Order-in-Appeal No. **KOL/CUS PORT/KS/526 /2024**	06.09.2024
Letter to group	Request letter for reassessment of Bill of Entry as per OIA	September 2024
Letter to group	Mail sent to group requesting	19.12.2024

	for re-assessment of Bill of Entry	
PH Letter given	PH letter given for deciding case and issuing adjudication order **PH date – 20.02.2025**	07.02.2025
Department preferred an appeal Against CESTAT Final Order **777256 -777262 /2023**	before the Hon'ble SUPREME COURT OF INDIA **[Final Order which was already accepted - so the adjudication order was kept in abeyance]**	26.03.2025
Hon'ble Supreme Court Order **[on similar matter]**	Departmental Appeal was disposed of on merit and time barred ground	09.05.2025
PH Letter given	PH letter given for deciding case and issuing adjudication order **PH date – 30.07.2025**	29.07.2025
Order-in-Original	Adjudication order was passed allowing the claim of the importer for amendment and re-assessment of Bill of Entry	17.09.2025
Corrigendum issued	To rectify the mistake in the OIO	28.10.2025
Bill of Entry Reassessed	The Bills of Entry were reassessed in ICES	04.11.2025
Refund Application under Section 27	Refund Application submitted online vide ARN No. **ARNIG07112025132200007**	07.11.2025
Refund order	OIO No. **KOL/CUS/AC/ARS (PORT)/937/2025** and Refund Order No. 193/2025 was issued [amount sanctioned – **Rs.2,89,56,399/-**	01.12.2025

Refund issue taken up with ICEGATE vide Ticket No. IM04379340 and Principal Commissioner of Customs (Port0	Mail sent to ICEGATE requesting to credit the refund amount and to Pr. Commissioner with a request to look into the matter	02.12.2026 till 18.01.2026
Refund amount credited	Refund of Rs. **2,89,56,399/-** was credited in the Account	20.01.2026
Importer preferred appeal	Under Section 128 requesting to allow the interest on the duty amount paid from date of payment of duty till the date of actual credit of the amount	11.02.2026
Order-in-Appeal	**allowed the appeal** vide Order-in-Appeal No. **KOL/CUS (PORT)/DC/234 /2026** for refund of interest @6% from the date immediately after expiry of three months from the date of receipt of the initial refund application dated 19.11.2018	07.04.2026
Refund Application filed	Refund Application submitted online vide ARN No. **ARNIG17042026214900005**	17.04.2024
Preferred appeal before Hon'ble CESTAT, EZB, Kolkata	Importer being aggrieved with the rate of interest and the time of calculation of interest preferred an appeal vide appeal No. C/75641/2026	14.05.2026
Refund order	OIO No. **KOL/CUS/AC/ARS (PORT)/606/2026 and Refund Order No. 178/2026** was issued [amount sanctioned – **Rs.1,1723,772/- [Calculated from 20.02.2019 till 18.11.2025]**	13.07.2026

10. From the above Table, it is clear that the importer-appellant after filing the B/E without claiming 100% exemption of BCD, has filed the request to re-assess the same under Section 149. However, this activity was not taken up at all by the Revenue for the next many years. So as not to get embroiled in the time bar issue, the they have filed the refund claim even as the re-assessment request was pending before the Revenue. This Refund claim was filed on 19.12.2018. The interest accrues after 3 months from this date, if the refund claim is found to be correct.

11. It is seen that from 2018 onwards, efforts were being made for the change in the classification and for getting the exemption under the concerned Notification. The procrastination is from the Revenue’s side. Multiple levels of the litigations were taken up, without deciding the issue. Even as the issue was settled by the Tribunal vide their Final Order Nos.777256 -777262 /2023 dated 12.10.2023 in respect of identical goods, still the matter was taken up to the Supreme Court level. After the issue stood decided at Apex Court level, some more years were spent on re-assessment order being passed and refund being granted. However, the refund was granted for the basic differential duty alone. The factual details proves that ultimately the Revenue was wrong in their classification . The importer was once again required to knock the doors

of higher forum to get the interest fructified. The Commissioner (Appeals) has gone through the factual details and after noting that the refund claim was filed on 18.11.2018, he has allowed the three months' free period and after that he has held that the interest would be payable with effect from 20.02.2019.

12. It would be pertinent to go through some of the important judgements on the issue as to from which date the interest would accrue. We have for reference the following case laws:

2012 (27) S.T.R. 193 (S.C.) [21-10-2011]
RANBAXY LABORATORIES LTD.
Vs ***UNION OF INDIA***

*"**14.** At this stage, reference may be made to the decision of this Court in ShreejiColour Chem Industries (supra), relied upon by the Delhi High Court. It is evident from a bare reading of the decision that insofar as the reckoning of the period for the purpose of payment of interest under Section 11BB of the Act is concerned, emphasis has been laid on the date of receipt of application for refund. In that case, having noted that application by the assessee requesting for refund, was filed before the Assistant Commissioner on 12th January 2004, the Court directed payment of Statutory interest under the said Section from 12th April 2004 i.e. after the expiry of a period of three months from the date of receipt of the application. Thus, the said decision is of no avail to the revenue.*

15. *In view of the above analysis, our answer to the question formulated in para (1) supra is that the liability of the revenue to pay interest under Section 11BB of the Act commences from the date of expiry of three months from the date of receipt of application for refund under Section 11B(1) of the Act and not on the expiry of the said period from the date on which order of refund is made.*

16. *As a sequitur, C.A. No. 6823 of 2010, filed by the assessee is allowed and C.A. Nos. 7637/2009 and 3088/2010, preferred by the revenue are dismissed. The jurisdictional Excise officers shall now determine the amount of interest payable to the assessees in these appeals, under Section 11BB of the Act, on the basis of the legal position, explained above. The amount(s), if any, so worked out, shall be paid within eight weeks from today."*

2017 (51) S.T.R. 214 (S.C.)
UNION OF INDIA
Vs ***HAMDARD (WAQF) LABORATORIES***

"The challenge in this batch of appeals is to the final judgments and orders delivered by the High Court of Delhi in W.P. No. 13940/2009 and the High Court of Judicature at Bombay in Central Excise Appeal Nos. 163/2007 [2008 (229) E.L.T. 498 (Bom.)] and 124 of 2008. The core issue which confronts us in all these appeals relates to the question of commencement of the period for the purpose of payment of interest, on delayed refunds, in terms of Section 11BB of the Central Excise Act, 1944 (for short "the Act"). In short, the question is whether the liability of the revenue to pay interest under Section 11BB of the Act commences from the date of expiry of three months from the date of receipt of application for refund or on the expiry of the said period from the date on which the order of refund is made?

9. *Presently to the flash back. In pursuance of the order passed by the competent authority, an amount of Rs. 3,74,00,000/- was refunded by cheque No. 639266 dated 15-11-2000 payable at PNB Navyug Market, Ghaziabad. As no interest was paid by the appellant, the respondent filed a Civil Miscellaneous Writ Petition No. 249 of 2001 before the High Court of Judicature at Allahabad [2005 (188) E.L.T. 476 (All.)]. The Division Bench, considered the judgment rendered by this Court in Civil Appeal No. 7766 of 1995, took note of the time prescribed for disposal of the application for refund, the language employed in Section 11BB of the Central Excise Act, 1944 (for short, 'the Act') and further appreciating the conduct of the parties, opined that the liability for payment of interest is statutory and it is the bounden duty of the Assistant Commissioner to pay interest from 26th November, 1999 till 15th November, 2000 at the rate specified under Section 11BB of the Act. The aforesaid conclusion impelled the Division Bench to allow the writ petition with costs which was assessed at Rs. 10,000/-. The said order is the subject matter of appeal by special leave.*

17. *The seminal issue is be whether there has been delay in grant of refund and consequently, whether the respondent-assessee is entitled to interest. Keeping in view the enumerated facts, the submissions canvassed and the provisions referred to, it is necessary to appreciate the principle stated in Ranbaxy Laboratories Limited (supra). In the said case, the question arose whether the liability of the Revenue to pay interest under Section 11BB of the Act commences from the date of expiry of three months from the date of receipt of application for refund or on the expiry of the said period from the date on which the order of refund is made.*

21. *As far the said principles are concerned, they are binding on us. But the facts in the case at hand are quite different. It is not a case where the assessee is claiming automatic refund. It is a case that pertains to grant of* *interest where the refund has been granted. The grievance pertains to delineation by the competent authority in a procrastinated manner. In our considered opinion, the principle laid down in Ranbaxy Laboratories Limited (supra) would apply on all fours to the case at hand. It is obligatory on the part of the Revenue to intimate the assessee to remove the deficiencies in the application within two days and, in any if there are still deficiencies, it can proceed with adjudication and reject the application for refund. The adjudicatory process by no stretch of imagination can be carried on beyond three months. <u>It is required to be concluded within three months. The decision in Ranbaxy Laboratories Limited (supra) commends us and we respectfully concur with the same</u>."*

13. To the factual matrix of the case, which has been discussed in the aforesaid paragraphs, the ratio laid down in the above Supreme Court judgements, is squarely applicable. Therefore, we hold that the importer-appellant would be eligible for the interest from 20.02.2019, as has been rightly held by the Commissioner (Appeals). Accordingly, we dismiss the appeal filed by the Revenue.

14. The importer-appellant has filed the appeal seeking interest @ 12% as against the interest granted @ 6%. For this, they have relied on various case laws. We have gone through the following case laws:

(2024) 20 Centax 470 (M.P.)
CGST and Central Excise, Commissioner, Indore Vs 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 CGST
Vs 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."*

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 ofto 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."*

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

"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."

15. We find that in these cases, the Supreme Court's decision in the case of Sandvik Asia has been followed.

16. The Kolkata Bench in the case of **Berger Paints India Ltd Vs CC AppealNo.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**.** <u>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</u>. The appeal filed by the Appellant is allowed on the above terms."*

17. We find that to the factual matrix of the present case of the appellant-importer, the above discussed 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. Therefore, we hold that the period for which the interest is to be paid remains unchanged. For this period (20.02.2019 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.

18. The Appeal filed by the Revenue is dismissed. The Appeal filed by the importer-appellant is allowed as per the above terms.

(Pronounced in the open court on **18.08.2026**)

(R.Muralidhar)
Member(Judicial)

(K.Anpazhakan)
mm **Member (Technical)**