ARJUN MACHHINDRA KADAM

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 15373 OF 2025

Leben Laboratories Pvt. Ltd. … Petitioner

Versus

Union of India & Ors. … Respondents

Mr. Prithwiraj Choudhari a/w. Ms. Kausarjahan Sayed and Mr. Aansh Desai i/b Pythagoras Legal for the Petitioner.

Mr. Siddharth Chandrashekar and Mr. Abhishek R. Mishra for Respondent Nos.4 & 5.

CORAM : M. S. KARNIK AND
SANDESH D. PATIL, JJ.

DATED : 1st SEPTEMBER, 2026.

ORAL JUDGMENT (PER M. S. KARNIK, J.)

1. Heard learned counsel for the petitioner.

2. The petitioner prays for declaration that levy, collection and retention of interest on IGST paid on imports in terms of Section 3(7) read with unamended Section 3(12) of the Customs Tariff Act, 1975, for the period prior to 16th August, 2024, is without authority of law and is in violation of Article 265 of the Constitution of India. The petitioner further prays for a direction to the respondents to

refund the amount of interest paid by the petitioner, as more particularly described in paragraphs 8(a), (b) and (c) of the petition.

3. Facts of the case in brief are that the petitioner imported some raw materials under Advance Authorisation Scheme and claimed exemption from levy of additional duties of customs leviable under Section 3(7) of the Customs Tariff Act, 1975 on such imports. The said imports were used for manufacture of products which were exported from India. At the time of export, the petitioner opted to pay IGST on exports and claimed refund of such IGST amount under Section 16 of the IGST Act.

4. During the period starting from 4th October, 2018 to 27th November, 2020, the petitioner effected 25 such imports by claiming additional duties of customs exemption followed by exports with refund of IGST paid on such exports. As per explanation to Rule 96(10) introduced retrospectively w.e.f. 23rd October, 2017, since the petitioner claimed benefit both on the import side (exemption) as well as on the export side (refund), the petitioner was required to pay back any one of the benefits. The petitioner chose to pay back the additional duties of customs on the import side on account of Rule 96(10) of the CGST Rules by recalling and getting the bills of

entries reassessed with the recomputed duty.

5. While paying back the additional duties of customs, the petitioner also paid interest to the tune of Rs.43 lakhs on such amounts to the respective customs authorities. Subsequently, once the levy of interest on additional duties of customs under the Customs Tariff Act, 1975 was struck down by this Court, the petitioner submitted letters to the customs authorities asking for return of the interest amount paid by the petitioner.

6. Learned counsel for the petitioner submitted that this Court in **Mahindra & Mahindra Ltd. Vs. Union of India**[1] and **A. R. Sulphonates Pvt. Ltd. Vs. Union of India**[2] has held that there were no provisions under the Customs Tariff Act, 1975 during the relevant period which empowered the Customs Authorities to levy and collect interest on belated payment of additional duties of customs.

7. The respondents have filed Affidavit-in-Reply. The Affidavit-in-Reply is taken on record. We have perused the Affidavit-in-Reply where a stand has been taken that for the reasons mentioned, the petition is not entitled for refund.

8. Learned counsel for the respondents opposed the

1 (2023) 3 Centax 261 (Bom.)
2 2025 (393) E.L.T. 246 (Bom.)

petition. It is submitted that the application for refund has not been made to the proper officer. It is further submitted that even on merits, the decision in **Mahindra & Mahindra Ltd. Vs. Union of India** (supra) may not apply to the facts of the present case. It is submitted that in such circumstances, there is no question of processing the refund application or grant of refund or interest.

9. We have heard learned counsel for the parties. This Court in **Mahindra & Mahindra Ltd. Vs. Union of India** (supra) and **A. R. Sulphonates Pvt. Ltd. Vs. Union of India** (supra) held that there were no provisions under the Customs Tariff Act, 1975 during the relevant period which empowered the Customs Authorities to levy and collect interest on belated payment of additional duties of customs. Further, it is profitable to rely upon the decision of recent origin of the Hon'ble Supreme Court in **Goodluck India Ltd. Vs. Union of India**[3] which holds that Rule 96(10) is deemed to be omitted since inception.

10. In our view, since Rule 96(10) is deemed to have been omitted since inception, there was no legal requirement or obligation on the petitioner to have made the repayment of the additional

3 (2026) 45 Centax 171 (S.C.)

duties of customs in March/April, 2022. Therefore, following the view taken in the aforesaid decisions, we have no hesitation in holding that there was no legal requirement or obligation to make such payment. The question therefore of levying interest on such repayment does not arise.

11. In such view of the matter, the writ petition deserves to be allowed and is accordingly allowed.

12. Respondent Nos.2, 4 and 6 or the proper authorities are directed to process the application made by the petitioner for refund of the amount of interest, as more particularly described in tables (a), (b) and (c) of paragraph No.8 of the petition and accordingly refund the amount of interest expeditiously.

13. No order as to costs.

(SANDESH D. PATIL, J.) (M. S. KARNIK, J.)