
(2024) 12 CESTAT CK 1248

In the Customs, Excise And Service Tax Appellate, New Delhi

Case No : Custom Appeal No. 53923, 53924, 53925, 53926, 53927, 53928, 53929, 53930, 53931, 53932, 53933, 53934, 53935 of 2023

Artex Textile Pvt Ltd @APPELLANT @Hash The Principal Commissioner, Customs-ICD, Patparganj, New Delhi @RESPONDENT

Date of Decision : 24-12-2024

Acts Referred:

Customs Act, 1962 — Section 27A, 27(2)

Citation : (2024) 12 CESTAT CK 1248

Hon'ble Judges : Dilip Gupta, President (J); P. V. Subba Rao, Member (T)

Bench : Division Bench

Advocate : Prem Ranjan, Rajesh Singh

Final Decision : Allowed

Judgement

Dilip Gupta, J

1. All these thirteen appeals seek to assail order dated 25.08.2022 passed by the Commissioner of Customs (Appeals) dismissing the thirteen appeals that had been filed by Artex Textile Pvt. Ltd., the appellant against the thirteen orders-in-original passed by the Deputy Commissioner of Customs.

2. The sole question that arises for consideration in these appeals is as to whether the appellant would be entitled to claim interest under section 27A of the Customs Act, 1962, the Customs Act from the date of sanction of the refund or from the date of actual refund.

3. It transpires that the appellant had filed refund claims for refund of excess duty under section 27A of the Customs Act in terms of the orders passed by the Tribunal. It was found by the adjudicating authority that excess customs duty and additional duty of customs was paid both through TR-6 online challans as well as through scrip/licence. The adjudicating authority, by the impugned orders, directed for payment of the amount paid through TR-6 challans through RTGS, but the portion of the duty which was paid by the appellant through scrip/licence was ordered to be re-credited into the respective scrip/ licence of the

appellant.

4. It is against these orders that the appellant filed thirteen appeals before the Commissioner (Appeals), who by order dated 10.02.2021, held that the refund which had been ordered to be disbursed by re-crediting the respective scrips/licence has to be disbursed through RTGS/cash. However, even after reproducing section 27A of the Customs Act, the Commissioner (Appeals) directed that interest would be admissible to the appellant under section 27A of the Customs Act for the period commencing three months after the filing of claim till the date of sanction of the refund.

5. It needs to be noted that section 27A of the Customs Act provides for interest on delayed refunds. It stipulates that if any duty ordered to be refunded under section 27(2) of the Customs Act is not refunded within three months from the date of receipt of the application, there shall be paid to the appellant, interest at such rate after the expiry of three months from the date of receipt of the application till the date of refund of such duty.

6. It also needs to be noted that in the operative part of the order dated 10.02.2021, the Commissioner (Appeals) did direct that "payable interest should be calculated and paid to the appellant in each case."

7. Pursuant of the aforesaid order passed by the Commissioner (Appeals), the adjudicating authority refunded the amount in cash to the appellant but granted interest only up to the date of sanction of the refund order.

8. Feeling aggrieved, the appellant filed appeals before the Commissioner (Appeals) for claiming interest up to the date of payment of the refund amount since the adjudicating authority granted interest only up to the date of sanction of the refund amount.

9. The Commissioner (Appeals) has, in the impugned order, relied upon that portion of the earlier order dated 10.02.2021 passed by the Commissioner (Appeals) that directs for payment of interest till the date of sanction of refund and, therefore, rejected the claim of the appellant for grant of interest up to the date of payment of duty.

10. Shri Prem Ranjan, learned counsel for the appellant submitted that in terms of section 27A of the Customs Act, the appellant is entitled to receive interest up to the date of refund of duty and not up to the date of sanction. He, therefore, submits that the appellant, in terms of the aforesaid statutory provision, is entitled to payment of interest up to the date when the amount was refunded to the appellant in cash.

11. Shri Rajesh Singh, learned authorised representative appearing for the department, however, submitted that in terms of the earlier order dated 10.02.2021 passed by the Commissioner (Appeals), the appellant can receive interest only up to the date of sanction, and in case the appellant felt aggrieved with the said order dated 10.02.2021, it should have challenged that order to

claim of interest up to the date of payment of the refund amount, but having not done so, the appellant cannot now claim interest up to the date when the amount was refunded.

12. The submissions advanced by the learned counsel for the appellant and the learned authorised representative appearing for the department have been considered.

13. Section 27A of the Customs Act clearly provides for payment interest up to the date of refund. The order of the Commissioner (Appeals) granting refund has, therefore, to be read in the light of the provisions of section 27A of the Customs Act. What has also to be noted is that the Commissioner (Appeals), in the operative part of the order, also directed that the "payable interest" should be granted to the appellant.

14. There is, therefore, no reason as to why the appellant would not be entitled to claim interest up to the date of refund of the amount.

15. In this view of the matter, the issue would have to be remitted to the adjudicating authority to compute the interest amount that would be payable to the appellant by calculating the interest up to the date of refund of the amount. If interest for the period up to the date of sanction has already been paid to the appellant, that amount would have to be adjusted and the appellant would only be entitled for payment of the remaining amount of interest.

16. Thus, the order dated 25.08.2022 passed by the Commissioner (Appeals) in all the thirteen appeals is set aside and the matters are remanded to adjudicating authority to calculate and make the payment of the additional amount of interest in accordance with the observations made above within a period of two months from the date a copy of this order is produced before the adjudicating authority. All the thirteen appeals are, accordingly, allowed.

(Dictated and pronounced in open court)