

(1991) 09 MAD CK 0034
In the Madras High Court
Case No : Writ Appeal No. 1174 of 1991

Collector of C. Ex.	Vs	APPELLANT
Thermo Electric Madras Manufacturing		RESPONDENT

Date of Decision : 26-09-1991

Acts Referred:

Central Excises and Salt Act, 1944 — Section 11B

Citation : (1994) 52 ECR 153 : (1992) 58 ELT 23

Hon'ble Judges : Thanikkachalam, J;Nainar Sundaram, J

Bench : Division Bench

Advocate : Shri K. Jayachandran, Addl. Central Govt. Standing, for the Appellant; Shri Aravind P. Datar, for the Respondent

Judgement

Nainar Sundaram, J.—The respondent succeeded before the Customs, Excise and Gold (Control) Appellate Tribunal, hereinafter referred

to as the Tribunal and the operative portion of the order of the Tribunal dated 20-9-1990 runs as follows :

Penalty is set aside. Demand of duty, if any, to be recalculated with consequential relief to the appellants, if any.

Ever since the order of the Tribunal, the respondent had been requesting the Authorities to work out the same and refund the excise duty. The

respondent was confronted with only a recalcitrant attitude by the Authorities. Ultimately, it was informed that an appeal to the Supreme Court of

India has been proposed. Vexed with the attitude, and to implement the order of the Tribunal, the respondent came to this Court in July, 1991 by

way of W.P. No. 9417 of 1991 to direct the appellants to recalculate the demand of duty as against the respondent and grant refund of excise

duty with interest at 18% per annum from the date of collection till the date of

actual refund. The facts and circumstances, which obliged the respondent to come to this Court, has been set forth in paragraph 6 of the affidavit filed in support of the writ petition.

2. The learned single Judge found no valid ground for the appellants to deny the working out of the order of the Tribunal as prayed for by the

respondent and deemed fit to issue a direction to the appellants to recalculate the demand of duty as against the respondent in pursuance of the

order of the Tribunal and grant refund of excise duty within two months from the date of receipt of the copy of the order of the learned Single

Judge with interest at 18% per annum on the amount to be refunded from the date of collection till the date of actual refund. This writ appeal is

directed against the order of the learned Single Judge, dated 31-7-1991.

3. Mr. K. Jayachandran, learned Additional Central Government Standing Counsel, appearing for the appellants, submitted that recalculation has

been done and on the basis of the recalculation, refund of the principal amount has also been done. But we note that the principal amount has been

refunded only on 27-8-1991 after the order of the learned Single Judge. Hence the submission of behalf of the appellants is confined only to the

award of interest. The respondent is being represented by Mr. Arvind P. Datar. We heard the submissions of both the sides on the above

question. With regard to award of interest by the learned Single Judge, on the facts and circumstances of the case, we cannot take any exception

to that. The rate is also a reasonable one and the learned Single Judge in this behalf has taken note of the provision for interest found in other

revenue statutes. However, with regard to the date from which interest should be paid, the decision of the Tribunal was rendered only on 20-9-

1990. But for the order of the Tribunal, the respondent would not get the lever, right and basis to insist for refund. In our view, it will be reasonable

to take only that date, namely, 20-9-1990 as the date from which interest could be paid. Accordingly, we direct that interest at 18% per annum on

the principal amount to be refunded, now refunded on 27-8-1991, should be paid from 20-9-1990 until 27-8-1991. The writ appeal is ordered in

the above terms. No costs. Time for payment of the interest amount four weeks from today.