(2010) 10 BOM CK 0266

In the Bombay High Court

Case No : Central Excise Appeal No. 23 of 2007

Commissioner of C. Ex. APPELLANT

Vs

Ispat Industries Ltd. RESPONDENT

Date of Decision : 12-10-2010

Acts Referred:

Central Excise Rules, 2002 — Rule 7(4)
Central Excises and Salt Act, 1944 — Section 11(A)(B)(2B)

Citation : (2010) 259 ELT 662

Hon'ble Judges : J.P. Devadhar, J;A.B. Chaudhari, J

Bench : Division Bench

Advocate : F.T. Mirza, for the Appellant; V.R. Thakur, for the Respondent

Judgement

J.P. Devadhar, J.—Heard learned Counsel for the parties.

2. This appeal has been admitted on the following question of law:

Whether the CESTAT was right in holding that in terms of the provisions of Rule 7(4), Respondent No. 1 could not be held liable to pay the interest on the differential duty as the duty amount has been paid prior to the final assessment, especially when provisions of Rule 7(4) of Central Excise Rules, 2002 read with Section 11AB(2B) of Central Excise Act, 1944, explicitly stipulates that interest is payable on delayed payment of any amount, at the appropriate rates from the first day of the month succeeding the month for which such amount is determined till the date of payment thereof.

3. Perusal of the order of the CESTAT [2007 (209) E.L.T. 280 (Tribunal)] shows that in the present case, differential duty was paid prior to the date of final assessment. Interest under Rule 7(4) of the Central Excise Rules, 2002 is payable from the first date of the month succeeding the month for which such amount is determined by the final assessment till the date of payment. Since differential duty was paid even before the final assessment was made, the Tribunal has held that the Respondent Assessee is not liable to pay interest. In

our opinion, no fault can be found with the order of the Tribunal. Accordingly, question raised by the revenue is answered in favour of the Assessee and against the revenue. The appeal is disposed of. No order as to costs.

