(2021) 05 CESTAT CK 0021

In the Customs, Excise And Service Tax Appellate Tribunal

Case No : Excise Appeal No. 60090 Of 2021

M/s P S G Steels Pvt Ltd APPELLANT

Vs

Commissioner Of CE And ST, Panchkula RESPONDENT

Date of Decision : 24-05-2021

Acts Referred:

Central Excise Act, 1944 — Section 3A(2), 3A(4)

Citation : (2021) 05 CESTAT CK 0021

Hon'ble Judges : Ashok Jindal, J

Bench : Single Bench

Advocate : Prem Sagar Garg, Rajesh Rai, Amandeep Kumar

Final Decision : Allowed

Judgement

1. The appellant is in appeal against the impugned order for not granting interest on delayed refund.

2. The facts of the case are that on 16.03.1998, the annual production capacity under Compound Levy Scheme was fixed under Section 3A (2) of the

Central Excise Act, 1944 by the competent authority. The said order was set aside by this Tribunal vide its order dt. 29.06.1998 and remanded the

matter back to the adjudicating authority to re-determine the production capacity under Section 3A (4) of the Central Excise Act, 1944. Thereafter, on

28.02.2002, again demand was confirmed as per Section 3A (2) of the Central Excise Act, 1944. The said order was set aside by this Tribunal vide its

order dt. 11.08.2005. In the meantime, the appellant made a pre deposit of Rs. 20 lakhs on two dates 26.12.2003 and 30.12.2003 respectively Rs. 10

lakhs each. After passing of the order dt. 11.08.2005 of this Tribunal, the appellant filed a refund claim of Rs. 20 lakhs paid by them in the year 2003

on 14.09.2005. Thereafter, the Revenue challenged the order of this Tribunal before the Honâ??ble High Court and the Honâ??ble High Court vide

its order dt. 04.07.2008 dismissed the appeal filed by the Revenue with the direction that the predeposit made by the appellant shall not be refunded to

the appellant till the decision of the adjudicating authority in the matter. Thereafter, the Revenue again filed a review petition and the same was also

dismissed. Thereafter, on 17.10.2008 a demand of Rs. 26,46,491/- was confirmed against the appellant in remand proceedings and on 31.10.2008, the

refund claim was sanctioned and the same was appropriated against the said demand. The said order of demand of duty was also set aside by this

Tribunal vide its order dt. 30.08.2018 and an application for rectification of mistake filed by the appellant was also dismissed by this Tribunal on

22.02.2019. Thereafter, the appellant again re-submitted the application seeking the refund of Rs. 20 lakhs on 30.12.2019 in continuation of their

application filed on 14.09.2005. The said refund was sanctioned on 19.01.2020 without any interest. The appellant sought an interest on delayed

refund, but ld. Commissioner(A) also rejected the claim of interest vide order dt. 18.09.2020. Hence, this appeal before me.

3. The facts stated hereinabove have not been disputed by either of the sides. Now question arises

(i) whether the appellant is entitled for interest on delayed refund or not? and

(ii) if yes, then from which date?

4. It is a fact on record that initially after the decision of this Tribunal, the appellant filed the refund claim on 14.09.2005. The said application was kept

pending by the Revenue and the same was not entertained. It was entertained only after the adjudication order on 31.10.2008 and the amount of

refund was adjusted against the demand raised by order dt. 17.10.2008. Again, the litigation continued and finally this Tribunal hold that the said

demand is not sustainable and remanded the matter back to the adjudicating authority for fresh adjudication. In terms of the decision of the

Honâ??ble Apex Court in the case of Ranbaxy Laboratories Limited vs. CCE â?" 2011 (273) ELT 3 (SC), wherein the Apex Court has held that if

the assessee filed the refund claim is entitled to claim the interest on delayed refund after three months from the date of filing of the refund claim

although there is a litigation in the matter. At this stage, the ld. AR submitted that if the appellant is entitled to claim interest, then the appellant is entitled to claim interest after three months from 14.09.2005 till 31.10.2008, as on the said date, the refund claim has been sanctioned. I find that it is

apparent on record that the said refund was sanctioned but was adjusted against the demand which was not sustained. In that circumstance, I hold

that the contention of the ld. AR is not acceptable. Therefore, in the light of the decision of the Honâ??ble Apex Court in the case of Ranbaxy

Laboratories Limited (supra), I hold that the appellant is entitled to claim interest after three months from the date of filing of the refund claim i.e.,

after 3 months of date of filing the refund claim i.e., 14.09.2005 till its realization. In these terms, the impugned order is set aside.

5. In result, the appeal is allowed with consequential relief.

(Dictated and pronounced in the open court)