(2013) 07 MAD CK 0117

In the Madras High Court

Case No : Civil Miscellaneous Appeal No''s. 576 to 579 of 2012

M/s. Shakun Overseas Limited — APPELLANT

Vs

The Commissioner of Customs (Appeals) and The Assistant Commissioner of Customs (Refunds) — RESPONDENT

Date of Decision : 18-07-2013

Acts Referred:
Central Excises and Salt Act, 1944 — Section 11, 11B, 11B(1), 11B(2), 11BB
Customs Act, 1962 — Section 27, 27(2), 27A, 28

Citation : (2013) 297 ELT 14 : (2014) 24 GSTR 510

Hon'ble Judges : K.B.K. Vasuki, J;Chitra Venkataraman, J

Bench : Division Bench

Advocate : J. Raja Kalifulla, S.C. for V. Pushpa, for the Appellant; K. Mohanamurali, SCGSC, for the Respondent

Judgement

Chitra Venkataraman, J.—These batch of appeals, preferred at the instance of the assessees, arise out of the order of the Customs, Excise

and Gold (Control) Appellate Tribunal. This Court, by order dated 30.3.2012 admitted these Civil Miscellaneous Appeals, on the following

substantial questions of law:

1. Whether the respondents are liable to pay interest on delayed refund of duty erroneously collected and became refundable in pursuant to order

made prior to the amendment of Section 27 of the Customs Act by Act 22/1995 from the date of deposit namely July, 1989 or from date of order

by which refund became due namely 30.9.1992 or in terms of the amended Section 27-A of the Customs Act with effect from 26.5.1995 or from

the date of final order dated 28.8.2001 passed in the refund proceedings? and

2. Whether the Tribunal is right in computing the interest payable on the amount

of duty to be refunded to the assessee after expiry of three months

from the date of receipt of the final order passed in appeal arising out of refund proceeding and not from the date of order passed in the

Assessment proceedings by the Commissioner of Customs (Appeals) dated 30.9.1992 whereby the assessment order was set aside and declared

value was directed to be accepted and consequently the amount became refundable?

The appellants herein are importers of mulberry raw silk. The appellants filed their Bill of Entry in respects of their imports along with the

documents to show that the declared price was in terms of the transaction value. However, the said valuation was not accepted by the Authorities.

With the result, the assessees paid the enhanced value under protest and the goods were cleared. Thereafter, the assessees preferred appeals

before the Collector of Customs (Appeals). After taking into consideration the various materials placed by the assessees, the first Appellate

Authority, by order dated 30.9.1992, allowed the appeals. Aggrieved by the same, the Revenue preferred appeals before the CEGAT. The

Tribunal, by order dated 01.8.1997, set aside the order of the first Appellate Authority and remanded the matter back to the original Authority for

de novo consideration.

2. Aggrieved by the said order of remand, the assessees preferred Writ Petitions before this Court in W.P. Nos. 15621 and 15622 of 1997. By

order dated 02.02.1998, this Court allowed the Writ Petitions directing the Tribunal to decide the case afresh.

3. It is a matter of record that considering the order passed by this Court on 02.02.1998 in W.P. Nos. 15621 and 15622 of 1997 allowing the

Writ Petitions thereby setting aside the order of the CEGAT dated 01.08.1997 on valuation, once again the appeals were taken up for

consideration by the CEGAT. By order dated 17.3.1999, the Tribunal allowed the assessees'' claim, thereby rejected the appeals filed by the

Revenue. With the result, the order passed by the Collector (Appeals) dated 30.09.1992 was confirmed accepting the value declared by the

assessees on the imports made.

4. It is a matter of record that in the meantime, the assessees made applications to Assistant Collector (Customs) on 12.3.1993 claiming refund of

the excess duty of Rs. 7,59,786/- and Rs. 1,95,138/- with interest at 20% per annum from the date of deposit. The assessees again approached

this Court for disposal of that applications in W.P. Nos. 7349 and 7950 of 1993 and W.P. Nos. 13536 and 13539 of 1994 for a direction to the

Assistant Collector (Customs) for refund of the excess duty amount. The claim of the assessees, was, however, rejected by the Assistant Collector

(Customs) on 16.12.1994 and directed the amount to be taken to the Convener Welfare Fund. As against this, the assessees went on appeal

before the Commissioner (Appeals) in C3/17 to 25/95. By order dated 6.6.1995, the Commissioner (Appeals) partially refunded a sum of Rs.

4,30,388/- out of Rs. 7,59,785/- in respect of M/s. Shakun Overseas Ltd. and refunded the entire amount of Rs. 1,95,139/- in respect of M/s.

Siddarth Internationals.

5. It is also a matter of record that on appeal preferred by the assessees, the CEGAT passed an order dated 27.1.1995 on the refund claim and

remanded the matter back to the Appellate Authority. The Commissioner of Customs (Appeals), by order dated 12.8.1999 dismissed all the

appeals. As against that, the assessees once again preferred appeals before the CEGAT. By order dated 28.8.2001, the CEGAT allowed the

appeals in C/405 to 411 and 412 to 413 of 1999, thereby set aside the order of the Commissioner of Customs (Appeals). Following the decisions

Mafatlal Industries Ltd. and Others Vs. Union of India (UOI) and Others, ; Union of India and others Vs. Solar Pesticide Pvt. Ltd. and Another,

and Addison and Co. Vs. Commissioner of C. Ex., the Tribunal held that the incidence of duty in all these cases had not been passed on to the

actual customers and the same had been borne by the importer themselves. Thus, while allowing the appeals on refund, the Tribunal observed that

the assessee was entitled to the consequential relief. Based on the order thus passed by the Tribunal, the assessees, once again, preferred petitions

on 24.10.2001, claiming refund with interest at the rate of 15% from the date of deposit till the date of refund.

6. It is seen from the documents placed before this Court that the Deputy Commissioner of Customs passed an order on 12.3.2002 granting

refund of duty payment alone without any interest. Aggrieved by this, the assessees wrote a letter on 15.3.2002, wherein they claimed that the duty payment being under protest, interest at 15% from the date of payment of duty was to be made. The prayer of the assessees was once again

reiterated under letter dated 26.4.2002. Since there was no further action, the assessees preferred Miscellaneous Petitions before the CESTAT

and contended that when the Tribunal had allowed the appeals directing relief as well as consequential relief, the Deputy Commissioner had no

authority to go behind the order, but was duty bound to pay the interest on the entire refund amount. Thus, the relief granted by the Deputy

Commissioner ordering refund of the principal amount was not in accord with the orders passed by the Tribunal; consequently, the assessees

sought for clarification from the Tribunal and to direct the Revenue to grant consequential benefits of refund with interest at 15% per annum from

the date of deposit till the date of refund.

7. By order dated 11.12.2006, the CESTAT disposed of the applications directing the Revenue to pay interest on the duty amount from

22.1.2002 to 12.3.2002. The Tribunal pointed out that though the applications made did not specifically sought for a direction to the lower

Authorities for payment of interest, yet, in terms of the decision of the Tribunal''s Larger Bench reported in 2004 (112) ECR 650 wherein the

relevant date for computation of interest on the duty refunded to the assessee was held to be the date immediately after expiry of three months

from the date of receipt of the relevant final order of the Tribunal, the payment of interest could be only from 22.1.2002 to 12.2002 and not prior

to that period. Aggrieved by this, the assessees have come before this Court by preferring the above appeals.

8. Learned senior counsel appearing for the appellants placed strong reliance on the decision reported in Ranbaxy Laboratories Ltd. Vs. Union of

India (UOI) and Others,) as well as on the decision reported in J.K. Cement Works Vs. Asstt. Commissioner of Central Excise and Customs,

which was confirmed by the Apex Court while dismissing the Special Leave to Appeal (Civil) No. 2131 of 2008 filed by the Revenue as against

the judgment of the Allahabad High Court. Learned Senior counsel appearing for the appellants pointed out that in view of the Supreme Court

decision confirming the Rajasthan High Court decision, the claim of the assessees for interest on the refund of the excess duty paid from the date of the order of the Collector of Customs (Appeals) at the first round of litigation allowing the assessees'' appeals could not be, in any manner, be

rejected. He pointed out that the provisions of Section 11B and 11BB of the Central Excise Act, are in pari materia to the provisions u/s 27 and

27A of the Customs Act; consequently, the decision of the Apex Court reported in Ranbaxy Laboratories Ltd. Vs. Union of India (UOI) and

Others, would apply in fairness to the understanding of the provisions on payment of interest under the Customs Act. He further pointed out that

after the order in the Writ Petitions allowing the assessees'' case and remanding the matter back to the CEGAT, the claim of the assessees was

accepted by the Tribunal, thereby the Revenue''s appeals were dismissed. In which event, the order of the Collector of Customs allowing the

assessees'' appeals having attained finality, in all fairness to the claim of the assessees, refund should have been made from the date of the order of

the Collector of Customs (Appeals), as had been held in the decision of the Rajasthan High Court reported in J.K. Cement Works Vs. Asstt.

Commissioner of Central Excise and Customs, He further pointed out that the payment of duty itself was under protest. Thus going by Section

11BB of the Central Excise Act read with the decision of the Apex Court reported in Ranbaxy Laboratories Ltd. Vs. Union of India (UOI) and

Others, , the rejection of claim for grant of interest by the Tribunal is totally devoid of merits.

9. Heard learned Senior Counsel appearing for the appellants and the learned Standing Counsel appearing for the respondents and perused the

materials placed before this Court.

10. We do not agree with the submissions made by the learned Senior counsel appearing for the appellants. Section 27 and 27A of the Customs

Act deal with claim for refund of duty and interest on the belated refunds respectively. A reading of Section 27 of the Customs Act shows that any

person claiming refund of any duty paid pursuant to an order of assessment or otherwise has to make an application for refund of such duty within

a period of six months or one year, as the case may be, as provided for u/s 27 of the Customs Act. Section 27(2) states that on receipt of the

application, when the Assistant Commissioner/Deputy Commissioner, as the case may be, is satisfied that the duty paid by the assessee (duty +

interest), if any, is refundable, he may make an order accordingly. Section 27A of the Customs Act, in fact, provides for time limit within which the

application be disposed of, failing which the assessee would be entitled to claim interest. The relevant portion of Section 27 as well as Section 27A

read as under:

SECTION 27. Claim for refund of duty.

(1) Any person claiming refund of any duty and interest, if any, paid on such duty-

(i) paid by him in pursuance of an order of assessment; or

(ii) borne by him, may make an application for refund of such duty and interest, if any, paid on such duty to the Assistant Commissioner of

Customs or Deputy Commissioner of Customs

....

....

Provided also that where the duty becomes refundable as a consequence of judgment, decree, order or direction of the appellate authority,

Appellate Tribunal or any court, the limitation of one year or six months, as the case may be, shall be computed from the date of such judgment,

decree, order or direction. Section 27(2) If, on receipt of any such application, the Assistant Commissioner of Customs or Deputy Commissioner

of Customs is satisfied that the whole or any part of the duty and interest, if any, paid on such duty paid by the applicant is refundable, he may

make an order accordingly and the amount so determined shall be credited to the Fund.

SECTION 27A. Interest on delayed refunds. If any duty ordered to be refunded under sub-section (2) of section 27 to an applicant is not

refunded within three months from the date of receipt of application under sub-section (1) of that section, there shall be paid to that applicant

interest at such rate, not below five percent and not exceeding thirty percent per annum as is for the time being fixed by the Central Government by

Notification in the Official Gazette, on such duty from the date immediately after the expiry of three months from the date of receipt of such

application till the date of refund of such duty:

Provided that where any duty, ordered to be refunded under sub-section (2) of section 27 in respect of an application under sub-section (1) of that

section made before the date on which the Finance Bill, 1995 receives the assent of the President, is not refunded within three months from such

date, there shall be paid to the applicant interest under this section from the date immediately after three months from such date, till the date of

refund of such duty.

Explanation. Where any order of refund is made by the Commissioner (Appeals), Appellate Tribunal, National Tax Tribunal or any court against

an order of the Assistant Commissioner of Customs or Deputy Commissioner of Customs under sub-section (2) of section 27, the order passed

by the Commissioner (Appeals), Appellate Tribunal, National Tax Tribunal or as the case may be, by the court shall be deemed to be an order

passed under that sub-section for the purposes of this section.

11. A reading of Explanation to Section 27A read with Section 27(2) of the Customs Act shows that where an order of refund is made by the

Commissioner (Appeals), Appellate Tribunal, National Tax Tribunal or any Court against the order of the Assistant Commissioner of Customs or

Deputy Commissioner u/s 27(2) of the Customs Act, the order of refund passed by the Commissioner (Appeals) or Appellate Tribunal shall be

deemed to be an order passed u/s 27(2) of the Customs Act by the Assistant Commissioner/Deputy Commissioner of Customs for the purposes

of grant of interest u/s 27A of the Customs Act. The fourth proviso to Section 27 of the Customs Act states that where the duty becomes

refundable as a consequence of judgment, decree, order or direction of the appellate authority, Appellate Tribunal, or any Court, the limitation of

one year or six months, as the case may be, shall be computed from the date of such judgment, decree, order or direction. Thus, while Section 27

of the Customs Act speaks about the limitation for preferring refund claim consequent on the order passed by the Appellate Authority on the

quantum appeal, Section 27A is about the refund order passed by the Appellate Authority on appeal consequent on the rejection by the original

authority. Thus, if an application has to be made claiming refund u/s 27 of the Customs Act, particularly in a case arising consequent on the order

of the Appellate Authority, the limitation, hence, has to be worked out as per the fourth proviso to Section 27 of the Customs Act. In this case, going by the admitted fact that the order of the Collector of Customs (Appeals) was finally disposed of on 17.03.1999, the claim can properly be

said to arise only consequent on the order of the Appellate Authority, namely, CEGAT dismissing the Revenue''s appeal and not the Collector of

Customs (Appeals). Thus, till such time the Tribunal disposed of the appeal on merits, the assessees could not lay their claim for refund, solely on

the basis of the order of the Collector of Customs (Appeals).

12. As already noted in the preceding paragraph, on the Writ Petitions filed before this Court, the first order of the Tribunal dated 01.08.1997 was

set aside by this Court and the matter was restored to the CEGAT for de novo consideration and only thereafter, in the year 1999, the Tribunal

accepted the case of the assessees on valuation and allowed the assessees'' appeals. Thus, in stricto senso, the claim for refund would arise only

from 1999 and not before. It is no doubt true that the assessees made applications for refund consequent on their appeals being allowed by the

Collector of Customs (Appeals). But then, when the matter was taken on appeal by the Revenue, the assessees can validly lay their claim only in

the year 2001 when after the order of this Court setting aside the order of the Tribunal, the Tribunal dismissed the Revenue''s appeals. Thus

reading Section 27A of the Customs Act on the application made validly by the assessees on 24.10.2001, the said applications thus having got to

be disposed of within a period of three months from the date of receipt of such applications, the question of interest payable on the belated refund

would have to be governed by the provisions u/s 27 and 27A of the Customs Act. As is evident from the reading of Section 27A of the Customs

Act, if the authority does not dispose of the application within a period of three months, Section 27A would come into play and the assessee would

be entitled to interest not less than 15% and not exceeding 30% per annum, as fixed by the Central Government by notification on the official

gazette from the date immediately after the expiry of three months from the date of receipt of such application till the date of refund of such duty. It

is a matter of relevance that on the dismissal of the assessees'' claim by the Tribunal dated 01.08.1997, wherein the Tribunal allowed the

Revenue''s appeal in the first round of litigation, the claim by the assessee could not be said to be alive for all practical purposes. It is only after the order of the Tribunal dated 17.03.1999 dismissing the Revenue''s appeal that the right of the assessees to claim refund could surface.

13. Going by the clear provisions available u/s 27A of the Customs Act, we hold that the assessees would be entitled to interest on the expiry of

three months from the date of receipt of the application to the date of refund of such duty and on no account they would be entitled to interest on

the amount paid under protest from the date of payment, as had been claimed by them. We also make it clear that the refund claim could be validly

held to be made only on the disposal of the appeals by the Tribunal and not any date prior to that, which means, the date on which the order was

passed by Collector of Customs (Appeals) would not be of relevance for the purpose of limitation.

14. In this connection, the provisions of the Central Excise Act, 1944, viz., Section 11B, which relates to the claim of refund of excise duty, needs

to be seen. A reading of the said provision shows that any person claiming refund of excess duty and interest paid on such duty has to make an

application for refund before the expiry of one year from the relevant date. The relevant date is defined under Clause (B) to Explanation to Section

11B of the Central Excise Act.

15. Learned Senior counsel appearing for the appellants seeks to draw inspiration from the definition of ''relevant date'', particularly sub-clause (f)

to Clause (B) for the purpose of claiming interest herein. The said provision has no relevance for the purpose of understanding Section 27 of the

Customs Act, which stands differently worded. Thus, considering the provision u/s 11B of the Central Excise Act, the reliance placed on the

decision of the Supreme Court reported in Ranbaxy Laboratories Ltd. Vs. Union of India (UOI) and Others, as well as on the decision of the

Rajasthan High Court reported in J.K. Cement Works Vs. Asstt. Commissioner of Central Excise and Customs, merits to be seen.

16. The decision reported in Ranbaxy Laboratories Ltd. Vs. Union of India (UOI) and Others, is concerned about the claim made under the

Central Excise Act, 1944, where the issue raised was as to whether interest therein u/s 11BB of the Central Excise Act was to be paid from the

date of expiry of three months from the date of the refund order made. The Apex Court, after referring to Sections 11B and 11BB of the Central

Excise Act, pointed out that Section 11BB comes into play only after the order for refund was made u/s 11B of the Central Excise Act. If the duty

is not refunded within a period of three months from the date of receipt of application submitted as per Section 11B(1), then the applicant would

be entitled to interest on the expiry of three months from the date of receipt of such application. Referring to Explanation u/s 11BB of the Central

Excise Act, which is similar to the deeming fiction u/s 27A of the Customs Act, the Apex Court pointed out that if the order of refund is made by

an appellate authority or the Court, then for the purpose of Section 11B, the order made by such higher appellate authority or by the court shall be

deemed to be an order made u/s 11B(2) of the Central Excise Act. Thus, interest u/s 11BB was payable on the expiry of the period of three

months from the date of receipt of the application for refund on the amount claimed thus remaining unpaid. The Apex Court pointed out ""Thus, the

only interpretation of Section 11-BB that can be arrived at is that interest under the said section becomes payable on the expiry of a period of

three months from the date of receipt of the application under sub-section (1) of Section 11-B of the Act and that the said Explanation does not

have any bearing or connection with the date from which interest u/s 11-BB of the Act becomes payable.

17. Thus, the Apex Court held that the liability of the Revenue to pay interest u/s 11BB of the Central Excise Act commenced from the date of

expiry of three months from the date of receipt of the application for refund u/s 11B(1) and not on the expiry of the said period from the date on

which the order of refund is made. The decision of the Apex Court on Section 11BB of the Central Excise Act has relevance to Section 27A,

which is in pari materia with Section 11BB of Central Excise Act. As pointed out by the Apex Court, the Explanation fictionally treating the order

passed by the Commissioner (Appeals) or Tribunal as that of the original Authority u/s 27(2) has relevance for the purpose of grant of interest u/s

27A of the Customs Act. Therefore, the liability of the Revenue to pay interest would arise immediately after the expiry of three months from the

date of receipt of the application till the date of refund of such amount.

18. As far as the present case is concerned, when the claim of the assessees could validly be made only on the disposal of the appeals by the

Tribunal, we have no hesitation in holding that the assessees would be entitled to interest only after the period of expiry of three months from the

date of the application till the date of refund of such duty.

19. As far as the claim of the assessee based on the decision of the Rajasthan High Court reported in J.K. Cement Works Vs. Asstt.

Commissioner of Central Excise and Customs, is concerned, we do not find that the decision would be of any assistance considering the difference

in language between the Central Excise Act (Section 11B) and the Customs Act (Section 27). Learned Senior counsel appearing for the appellants

placed heavy reliance on Section 11B of the Central Excise Act to read the ''relevant date'', as defined therein, into the provisions of Section 27 of

the Customs Act. We do not find any justification to bring in the provisions or the concepts therein into the Customs enactment, which is clear in its

import.

20. Leaving that aside, when we look at the reasoning of the Rajasthan High Court, which was later on affirmed by the Apex Court, we find

therein that the Appellate Commissioner allowed the appeal, treating the assessee as a new industrial undertaking entitled to rebate at Rs. 50/- per

metric ton on full rate of duty; that the assessee made an application on 15.02.1992 for refund of the duty paid on the clearance of its product

claiming entitlement to a rebate; the application was originally rejected by the Excise Commissioner by not accepting the claim of the assessee to

be a new industrial undertaking. However, in the meantime, the order of the Commissioner (Appeals) was taken on appeal by the Revenue before

the CEGAT, which upheld the claim of the assessee as a new industrial undertaking. In spite of the order dated 15.03.1996, accepted by the

Revenue, there was no refund made. Instead, a show cause notice was issued to transfer the amount to the Consumer Welfare Fund. The direction

to deposit the duty paid by the assessee to be transferred to the Consumer Welfare Fund was subjected to appeal before the Commissioner

(Appeals) and thereafter before the Tribunal, which upheld the claim of the assessee for refund. Except for the principal amount, no interest was

paid by the Revenue. This was challenged before the High Court by way of writ petitions. Pointing out that the assessee was entitled to refund

pursuant to the order of the Tribunal, the Rajasthan High Court considered the claim of the assessee for refund prior to the expiry of three months

from the date of the order dated 15.12.2002. In considering this, the Rajasthan High Court pointed out that reading Section 11BB with Section

11B of the Central Excise Act, the payment of interest could only be treated as one linked to the application required to be made u/s 11B and not

to the order u/s 11B(2) of the Central Excise Act. The Rajasthan High Court observed that where any person claims refund, he has to make

application as per Section 11B(1) of the Central Excise Act before the time limit stated therein from the relevant date. Taking note of the definition

''relevant date'' under Explanation B(f), the High Court held that the date of payment of duty and not the date of determination about excess

payment of duty would be the criteria for making an application u/s 11B(1). The Rajasthan High Court held:

36. However, the payment of interest was linked not to the order u/s 11B, but with the application required to be made u/s 11B(1). As discussed

above every person who claims a refund is first required to make an application u/s 11B before time limit stated therein from the relevant date. The

relevant date defined under Explanation B(f), applicable to present case, is the date of payment of Duty and not the date of determination about

excess payment of Duty. Until substituted vide Finance Act, 2000, any claimant, to refund was required to make an application before expiry of six

months from the relevant date, which in the case of the petitioners, who did not fall within Clause (a)(e) of Explanation B to Section 11B was the

date of payment of Duty. The period for making such applications since Finance Act, 2000 has been enhanced to one year.

37. Interest has been made payable with effect from the expiry of three months from the date of application made u/s 113(1), in case where refund

is required to be paid to such applicant as per orders passed u/s 11B. The making of application is not linked with adjudication about excess

payment but is linked with payment of Duty.

21. Thus on the provision available, the Rajasthan High Court observed that ""notwithstanding the order under Sub-section (2) of Section 11 has

been passed by CEGAT in appeal only on 15-12-2002, but as the application to claim refund has been filed much earlier before the date when it

was required to be filed and the amount having not been made within three months from the date of application, the applicant became entitled to

interest with effect from the such date on principal amount to be refunded to him ultimately pursuant to an order made u/s 11B at the rate notified

by the Board from time to time, with effect from the date of expiry of three months from the date of application until date of payment of arrears of

amount of excess Duty to Consumer Welfare Fund."" Thus, the Rajasthan High Court allowed the petition directing the Revenue to pay interest u/s

11B of the Central Excise Act with effect from the expiry of three months from the date when 11BB of the Central Excise Act came into force,

i.e., 26.5.1995 until the date of actual payment.

22. This judgment was affirmed by the Apex Court in the decision given dismissing the Special Leave to Appeal (Civil) No. 2131 of 2008 dated

06.08.2009 in the appeal filed by the Revenue against the judgment of the Allahabad High Court reported in U.P. Twiga Fiber Glass Limited Vs.

Union of India (UOI) and Commissioner, Central Excise,

23. A reading of the decision of the Rajasthan High Court reported in J.K. Cement Works Vs. Asstt. Commissioner of Central Excise and

Customs, as confirmed by the Apex Court, has to be seen in the context of the definition ''relevant date'' given u/s 11BB of the Central Excise Act.

Thus, even going by the above decision and the provision in Section 27A which is in pari materia with Section 11BB of the Central Excise Act, it is

clear that the payment of interest can start only on the expiry of three months from the date of receipt of the application and in this case, contrary to

the assertion of the learned Senior counsel appearing for the appellants, the refund claim could lawfully be granted only after the dismissal of the

appeal by the Tribunal and not for the period prior to that date, i.e., from the date when the Collector of Customs (Appeals) passed an order in

favour of the assessees. In other words, the assessees could validly lay their claim, rightly so in this case, only after the dismissal of the appeal by

the Tribunal and not prior to that date. Therefore, we do not agree with the contention of the learned Senior counsel appearing for the appellants

that the appellants are entitled to claim interest prior to that date, i.e., they would be entitled to claim interest from the time when the Collector of

Customs (Appeals) had allowed the appeals. Consequently, rejecting the above appeals, we hold that going by the provisions available u/s 27 and

27A of the Customs Act, the claim of the assessees for interest arise only on the dismissal of the appeals before the Tribunal, wherein the order of

the Collector of Customs (Appeals) got confirmed and if the claim of the assessees for refund is not disposed of within the time specified u/s 27 of

the Customs Act, i.e., within a period of three months from the date of receipt of the application, then as per Section 27A of the Customs Act, the

assessees would be entitled to claim interest on the expiry of three months from the date of receipt of the application till the refund of such duty.

We may point out herein that only for the purpose of recovery, u/s 28 of the Customs Act, there is a definition of expression ''relevant date''. Thus,

in the absence of any such definition of expression ''relevant date'' u/s 27 of the Customs Act, as is found in the Central Excise enactment, we do

not find that the assessees could draw much assistance from the decision of the Rajasthan High Court reported in J.K. Cement Works Vs. Asstt.

Commissioner of Central Excise and Customs, . Consequently, the above appeals are dismissed. We, however, make it clear that there is no

dispute by the assessees as regards the date of receipt of application seeking refund. In the circumstances, it is not necessary to again order

remand for working out the date from which the interest has to be granted. No costs.