(2001) 07 MP CK 0023

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No. 855 of 1993

Rewa Gases Private Limited — APPELLANT

Vs

Union of India (UOI) — RESPONDENT

Date of Decision : 06-07-2001

Acts Referred:
Central Excises and Salt Act, 1944 — Section 11B, 11BB
Constitution of India, 1950 — Article 226

Citation : (2002) 142 ELT 318 : (2001) ILR (MP) 1630

Hon'ble Judges : Dipak Misra, J

Bench : Single Bench

Advocate : Seema Agrawal, for the Appellant; Nair, Learned Counsel, for the Respondent

Judgement

Dipak Misra, J.—Though this writ petition was listed for urgent hearing on the consent of the learned Counsel for the parties it is finally heard.

2. The facts of the case lie in a narrow compass. It is the stand in the writ petition that the petitioner was allowed to get the refund of Rs. 2,93,339.87P by order dated 28-8-92 but the interest was not paid on the aforesaid sum.

3. A return has been filed by the Department indicating that earlier there was no provision for grant of interest, and later on said provision has been incorporated.

4. Having heard Mrs. Seema Agrawal, learned Counsel for the petitioner, and Mr. Nair, learned Counsel for the respondents, I am of the considered view that when there has been delay in refund of amount the as- sessee is entitled to the interest on the sum for the simple reason that the department could not have withheld the amount and advance a plea that the assessee is not entitled to interest.

5. Accordingly, it is directed that the petitioner shall be entitled to the interest at the rate of 12% per annum for the amount which was refunded to the petitioner. The interest shall be computed within a period of 8 weeks from today and be

paid to the petitioner.

The writ petition is accordingly disposed of C.C. as per rules by 11-7-2001.