

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

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REGIONAL BENCH – COURT NO. 1

**Excise Appeal No. 60394 Of 2022**

[Arising out of OIA No. APPL./COMM/CEX/153/2020-GST-APL-JMU Dated 12.10.2022 passed by the Commissioner (Appeals) of CGST, Jammu]

**M/s Champion Flavours, Meerut**  
773-d, Sotiganj Bhind Gurudwara, Meerut UP

**: Appellant (s)**

Vs

**Commissioner CGST, Jammu**  
OB-32, Rail Head Complex, Bahu Plaza  
Jammu & Kashmir

**: Respondent (s)**

APPEARANCE:

Shri Naveen Bindal, Advocate for the Appellant

Shri Amandeep Kumar, Authorised Representative for the Respondent

**CORAM : HON'BLE Mr. S. S. GARG, MEMBER (JUDICIAL)**

**ORDER No. A/60140/2023**

Date of Hearing: 25.05.2023

Date of Decision: 29.05.2023

**Per : S. S. GARG**

The present appeal is directed against the impugned order dated 12.10.2022 passed by the Ld. Commissioner (Appeals) whereby the Ld. Commissioner (Appeals) has rejected the appeal of the appellant for grant of interest on delayed payment of refund under Section 11BB of the Act.

2. Briefly stated the facts of the present case are that the appellant was engaged in the manufacturing of Menthol, Menthol Crystal's and DMO and was availing area based exemption under Notification No. 56/2002 dated 14.11.2002. The appellant filed refund claim of Rs. 5,72,340/- vide letter dated 28.10.2010 on account of balance lying in their personal ledger account (PLA) which was pending unutilized due to withdrawal of duty vide Notification No. 10/2010-CE dated

27.02.2010. The Respondent did not sanction refund claim inspite of repeated reminders made by the appellants. In the meantime, a case was made out against the appellant on the allegation that the appellant was not engaged in physical manufacturing of the goods and therefore, show cause notice dated 24.09.2012 was issued proposing recovery of refund of self credit amounting to Rs. 23,49,397/- which was culminated into vide Order-in-Original dated 06.05.2016. The appellant filed appeal before this Tribunal against the said order-in-original which was allowed by the Tribunal vide its Final Order dated 22.10.2019. The appellant during the pendency of the appeal before the Tribunal deposited Rs. 1,76,250/- as pre-deposit i.e. 7.5% of the confirmed demand. The appellant vide letter dated 07.11.2019 filed refund claim of Rs. 1,76,250/- and also requested the Respondent to sanction refund claim of Rs. 5,72,340/- which was filed on 28.10.2010 but the Respondent vide Order-in-Original dated 31.08.2020 sanctioned the refund claim of Rs. 5,72,340/- and the refund of pre-deposit Rs. 1,76,250/-. Further, interest on delayed refund of pre-deposit amounting to Rs. 42,804/- was also granted, but interest on delayed payment of refund claim of Rs. 5,72,340/- was not sanctioned. Aggrieved by the order of the original authority, the appellant filed appeal before the Ld. Commissioner (Appeals), Jammu who vide Order-in-Appeal dated 12.10.2022 rejected the appeal of the appellant. Hence, the present appeal.

3. Ld. Counsel for the appellant submitted that the impugned order rejecting the interest on delayed payment of refund is not sustainable in law and is against the settled position of law. He further submitted that as per Section 11BB of Central Excise Act, 1944, it is evident that the interest is payable after the expiry of 3 months from the date of

receipt of application. He further submitted that the Ld. Commissioner (Appeals) has wrongly rejected the contention of the appellant on the ground that the competent authority was not in a position to decide refund claim for the said period when the issue of self credit was pending for investigation. He further submitted that this ground for rejection is not provided in the statute. In support of his claim of interest on delayed refund, he relied upon the following decisions:-

- Ranbaxy Laboratories Ltd. vs. UOI 2011 (273) ELT 3 (SC)
- Commissioner of Customs vs. M/s Oswal Woolen Mills Ltd. in Customs Appeal No. 60214 of 2022
- Impressive Management Solutions Pvt. Ltd. vs. CGST-Chandigarh in STA No. 60268 of 2022
- CCE vs. Riba Textiles – 2022 (32) GSTL 136 (P & H)
- Notification No. 56/2002-CE dated 14.11.2002

4. On the other hand, the Ld. AR reiterated the findings in the impugned order.

5. After considering the submissions made by both the parties and perusal of material on records and the judgements relied upon by the Ld. Counsel for the appellant, I find that the appellant is entitled to interest on the delayed refund in view of the judgement of the Hon'ble Apex Court in the case of Ranbaxy Laboratories Ltd. vs. UOI cited (supra) wherein the Hon'ble Apex Court has held in the following paras as under:-

**“14.** At this stage, reference may be made to the decision of this Court in *Shreeji Colour Chem Industries* (supra), relied upon by the Delhi High Court. It is evident from a bare reading of the decision that insofar as the reckoning of the period for the purpose of payment of interest under Section 11BB of the Act is concerned, emphasis has been laid on the date of receipt of application for refund. In that case, having noted that application by the assessee requesting for refund, was filed before the

Assistant Commissioner on 12th January 2004, the Court directed payment of Statutory interest under the said Section from 12th April 2004 i.e. after the expiry of a period of three months from the date of receipt of the application. Thus, the said decision is of no avail to the revenue.

**15.** In view of the above analysis, our answer to the question formulated in para (1) supra is that the liability of the revenue to pay interest under Section 11BB of the Act commences from the date of expiry of three months from the date of receipt of application for refund under Section 11B(1) of the Act and not on the expiry of the said period from the date on which order of refund is made.

**16.** As a sequitur, C.A. No. 6823 of 2010, filed by the assessee is allowed and C.A. Nos. 7637/2009 and 3088/2010, preferred by the revenue are dismissed. The jurisdictional Excise officers shall now determine the amount of interest payable to the assessee in these appeals, under Section 11BB of the Act, on the basis of the legal position, explained above. The amount(s), if any, so worked out, shall be paid within eight weeks from today."

6. Further, I find that the appellant has filed the refund claim on 28.10.2010 which was finally sanctioned on 31.08.2020 but no interest was granted.

7. Further, as per Section 11BB of the Act, the interest is payable after the expiry of 3 months from the date of receipt of application. Therefore, in this case, the appellant is entitled to interest on delayed payment from 27.01.2011 to till date of credit to the account of the appellant at the rate of 6% as per the statute.

8. In view of this, the present appeal is allowed and the original authority is directed to compute the amount of interest and pay the same within the period of 2 months from the date of receipt of this order.

9. Accordingly, the appeal is allowed.

*(Pronounced on 29.05.2023)*

**(S. S. GARG)**  
MEMBER (JUDICIAL)