

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL**  
**NEW DELHI**  
**PRINCIPAL BENCH - COURT NO. II**

**Excise Appeal No. 51277 of 2022 (SM)**

(Arising out of Order-in-Appeal No. 33/2021-22 dated 01.02.2022 passed by the Principal Commissioner of CGST, Central Excise & Service Tax, New Delhi.)

**M/s Leading Point Powertronics Pvt Ltd**  
C-3, C-38, Sector-59,  
Noida-201301

**Appellant**

*VERSUS*

**Commissioner, Central Excise & CGST-  
Delhi South**  
New Delhi

**Respondent**

**APPEARANCE:**

Ms. Priyanka Goel, Advocate for the Appellant

Shri Gopi Raman, Authorised Representative for the Respondent

**CORAM:**

**HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)**

**FINAL ORDER NO. 50255/2023**

**Date of Hearing: 02.09.2022**

**Date of Decision: 01.03.2023**

**ANIL CHOUDHARY:**

The issue in this appeal is regarding grant of proper interest on the amount refunded, which was deposited during investigation.

2. The brief facts are as follows:

Date	Particulars
15/16.10.2010	Search was conducted in the business premises of the appellant
27.10.2010	Rs.75,00,000/- was deposited by the Appellant on the behest of the department during the course of investigation.
02.11.2010	Again Rs.25,00,000/- was deposited by appellant on the behest of the department during the course of investigation.

13.04.2011	A show cause notice was issued to the appellant demanding the duty of Rs.63,66,128/- along with interest and equal of penalty.
30.11.2012	The show cause notice was adjudicated wherein the duty demand of Rs.37,63,934/- was confirmed along with interest and equal amount of penalty was also imposed. Adjudicating Authority ordered to appropriate Rs. 65,84,270/- out of Rs.1,00,00,000/- which were deposited by appellant during the course of investigation and rest of the amount was ordered for refund to the appellant (i.e Rs.34,15,730/-). Both appellant and department filed the appeal before Hon'ble Tribunal against the order in original.
26.08.2013	Refund application for the remaining amount of Rs.3415730/- was filed by the appellant.
29.09.2015	The refund was sanctioned but no interest was given on the sanctioned amount.
14.03.2017	Hon'ble Tribunal vide their Final Order No. 52534-52538/2017 set aside the order appealed against and remanded all the appeals i.e both appellant and department appeal to the original authority for denovo adjudication.
12.05.2020	Id. Commissioner has dropped the whole duty demand of Rs.63,66,128/- but imposed the redemption fine of Rs. 3000000/- u/r 25 of the Central Excise Rules, 2002. Further he also imposed penalty amounting to Rs. 6,50,000/- under rule 25 and Penalty of Rs.6,50,000/- on Sh. Sanjeev Bhardwaj, Director of the Company. He directed to appropriate the amounts from the amount deposited during the course of investigation i.e in the year 2010. He directed to refund the remaining amount.
17.06.2020	Appellant filed refund application for the remaining amount.

24.08.2020	Department found some discrepancy in the refund application and issued a letter to resolve those discrepancies.
02.09.2020	Appellant removed all those discrepancies.
05.02.2021	Rs. 22,84,270/- were sanctioned by the department and said amount was refunded to the appellant. But the said amount was paid without paying any interest on the refund amount.
27.09.2021	Appellant filed an appeal against the OIO dated 05.02.2021 in respect of not granting of interest on refund amount.
31.01.2022	The Comm. Appeal allowed the interest but the same has been not allowed from the date of deposit of the amount i.e. since 27.10.2010. Commissioner (Appeals) have held that interest is allowable under Section 11BB after three months from the date of application and hence, the appellant is entitled to interest on delay sanction of refund only on expiry of the period of three months from the date of filing of the refund claim which was filed on 17.06.2020 and not from the date of deposit of the amount.

3. Assailing the impugned order, learned Counsel for the appellant states that the issue is no longer res integra and it have been held by Division Bench of this Tribunal in Parle Agro Pvt Ltd vs. Commissioner, CGST, Noida 2022 (380) ELT 219 (Tri.-All), wherein this Tribunal have held that interest on refund of amount deposited during investigation or deposited during pendency of appeal is allowable under Section 35EE of the Act and has to be paid from the date of deposit till the date of refund. The Division Bench have

followed the ruling of Hon'ble Supreme Court in Sandvik Asia Ltd. Vs. Commissioner of Income Tax-I, Pune 2006 196 ELT 257 (SC). Learned Counsel further urges that the ruling of Division Bench of the Tribunal in Parle Agro have been confirmed by Hon'ble Punjab & Haryana High Court in Riba Textile Ltd. Vs. CCE & ST, 2020 (2) TMI 602. Accordingly, she prays for allowing the appeal and grant of consequential benefits.

4. Learned AR for revenue Mr. Gopi Raman relies on the impugned order.

5. Having considered the rival contentions, I find that the issue herein is squarely covered on all four by the precedent ruling of Division Bench of this Tribunal in Parle Agro Ltd. (Supra) which has also been confirmed by Punjab & Haryana High Court in Riba Textile Ltd. (Supra) in CEA No. 8/2022 order dated 14.03.2022.

6. In view of my aforementioned observations, I allow this appeal and hold that the appellant is entitled to interest on the refundable amount of Rs. 22,84,270/- from the date of deposit (27.10.2010) till the date of refund being 05.02.2021, @ 12% per annum. Appeal allowed.

(order pronounced in the open court on 01.03.2023)

**Anil Choudhary**  
**Member(Judicial)**