

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL  
CHANDIGARH**

REGIONAL BENCH - COURT NO. I

**Customs Appeal No. 60214 of 2022**

[Arising out of Order-in-Appeal No. LUD-EXCUS-APP-51-55-2022 dated 05.04.2022 passed by the Commissioner (Appeals), CGST, Ludhiana]

**Commissioner of Customs, Ludhiana**

(ICD, GRFL, G T Road, Sahnewal,  
Ludhiana, Punjab - 141001)

**.....Appellant**

*VERSUS*

**M/s Oswal Woolen Mills Ltd**

(G T Road, Sherpur,  
Ludhiana, Punjab - 141120)

**.....Respondent**

**WITH**

**Customs Appeal No. 60215 of 2022**

[Arising out of Order-in-Appeal No. LUD-EXCUS-APP-51-55-2022 dated 05.04.2022 passed by the Commissioner (Appeals), CGST, Ludhiana]

**Commissioner of Customs, Ludhiana**

(ICD, GRFL, G T Road, Sahnewal,  
Ludhiana, Punjab - 141001)

**.....Appellant**

*VERSUS*

**Monte Carlo Fashion Ltd**

(B-XXIX, 106, G T Road, Sherpur,  
Ludhiana, Punjab - 141120)

**.....Respondent**

**AND**

**Customs Appeal No. 60216 of 2022**

[C.C. Ludhiana vs Monte Carlo Fashion Ltd]

**Customs Appeal No. 60217 of 2022**

[C.C. Ludhiana vs Monte Carlo Fashion Ltd]

**Customs Appeal No. 60218 of 2018**

[C.C. Ludhiana vs Oswal Woolen Mills Ltd]

[Arising out of Order-in-Appeal No. LUD-EXCUS-APP-51-55-2022 dated 05.04.2022 passed by the Commissioner (Appeals), CGST, Ludhiana]

**APPEARANCE:**

Present for the Appellant: Sh. Amandeep Kumar, Authorized Representative

Present for the Respondents: Sh. Surjeet Bhadu, Advocate and

Sh. Veer Singh, Advocate

**CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)****FINAL ORDER NO. A/60016-60020/2023**

DATE OF HEARING: 09.02.2023

DATE OF DECISION: 14.02.2023

**PER S. S. GARG**

The Revenue has filed these five appeals against the common impugned order dated 05.04.2022 passed by the Commissioner (Appeals), CGST, Ludhiana, whereby the Id. Commissioner (Appeals) has allowed the appeals of the respondents/assesseees by setting aside the orders-in-original.

2.1 Since the issue involved in all five appeals is identical and there is a common impugned order, hence I proceed to decide all five appeals by this common order. Details of the refund claims filed by the respondents/assesseees are as under:

Appeal No.	Name of Party	Duty amount	Date of 1 <sup>st</sup> Application
C/60214/2022	Oswal Woolen Mills Ltd	510417.00	07.07.2017
C/60218/2022	Oswal Woolen Mills Ltd	2287560.00	30.03.2017
C/60215/2022	Monte Carlo Fashions Ltd	14956023.00	26.08.2016
C/60216/2022	Monte Carlo Fashions Ltd	27801977.00	15.05.2017
C/60217/202	Monte Carlo Fashions Ltd	12017289.00	21.07.2017

2.2 For the sake of convenience the facts of Appeal No. C/60214/2022 are taken.

3.1 Brief facts of the present case are that the respondents/assesseees are engaged in the import of Polyester Blankets/Polyester Mink Blankets made out of 100% Polyester Spun Yarn and Fleece Antipill Blankets etc falling under Tariff Heading 63014000 of the Customs Tariff Act, 1975. The respondents/assesseees filed various Bills of Entry for the import clearance of Polyester Blankets/Polyester Mink Blankets from China. The goods were assessed to Basic Customs Duty and CVD leviable under Section 3(1) of the Customs Tariff Act, 1975, along with other duties payable under the Act. Further, the respondents/assesseees contended that the imported goods did not attract CVD, in as much as, the excise duty on the like articles if manufactured in India is exempt by Notification No. 30/2004-CE dt. 09.07.2004. Further, due to the charging of CVD, the values for the purpose of calculating 2% Education Cess, 1% Higher Education Cess and 4% Special Additional Duty were also inflated resulting into excess payment of these duties proportionately. Consequent upon assessment of the Bill of Entry, the respondent/assesseees submitted letters of protest stating that the Bills of Entry had been prepared at the gateway at [www.icegate.gov.in](http://www.icegate.gov.in) and since the said exemption was not being reflected on the systems, they were making payment of CVD under protest.

3.2 Thereafter, the respondent/assessee filed the appeals before the Commissioner (Appeals), who upheld the order of the assessing authority by rejecting the appeals filed by them.

3.3 The order of the Commissioner (Appeals) was set aside by the CESTAT, Chandigarh. Thereafter, the respondents/assessee filed the refund claims. After the decision of the CESTAT, the Department sanctioned the refund claims, but ordered that the same to be transferred to the Consumer Welfare Fund in accordance with the provisions of Section 27(2) of the Customs Act, 1962 on the ground of bar of unjust-enrichment.

3.4 Aggrieved by the said order, the respondents/assessee filed the appeals before the Commissioner (Appeals) who vide order dated 21.06.2018 rejected the appeals of the respondents/assessee.

3.5 Further, aggrieved by the order dt. 21.06.2018 passed by the Commissioner (Appeals), the respondents/assessee preferred the appeals before the CESTAT, who vide its Final Order dated 02.04.2019 set aside the order dt. 21.06.2018 and allowed the appeals with consequential relief. Thereafter, the respondents/assessee again filed the refund claims as a consequential relief arising out of the Final Order dt. 02.04.2019 passed by the Division Bench of this Tribunal.

3.6 Thereafter, the Department sanctioned the refund claims but interest was denied to the respondents/assessee on the ground that the matter was sub-judiced before the CESTAT and the refund claims

were disposed of within the period of three months of the said order as prescribed under Section 27(A) of the Customs Act, 1962.

3.7 Being aggrieved by the said order of not granting the interest, the respondents/assesseees filed the appeals before the Commissioner (Appeals) seeking payment of interest on delayed refund. The Commissioner (Appeals) allowed the appeals of the respondents/assesseees by the impugned order dt. 05.04.2022.

3.8 Aggrieved by the order dated 05.04.2022 passed by the Commissioner (Appeals), the Revenue has filed these five appeals.

4. Heard both the parties and perused the material on record.

5. The Id. D.R. appearing for the Revenue submitted that the impugned order dt. 05.04.2022 passed by the Commissioner (Appeals) is wrong in holding that the respondents/assesseees are entitled to interest on the refund filed on the initial date of application as per Section 27(A) of the Customs Act, 1962. He further submitted that the claim of respondents/assesseees were processed within the time limit of three months and the same was sanctioned as per the provisions of Section 27(2) of the Customs Act, 1962. He further submitted that as per Section 27(2), the Revenue is liable to pay interest from the date of decision of the Tribunal i.e. 02.04.2019. He also submitted that the subject refund claim has been disposed of within period of three months as prescribed under Section 27(A) of the Act and therefore, the respondents/assesseees are not entitled to claim the interest on the said refunds.

6. On the other hand, the Id. Counsel for the respondents/assesseees submitted that the impugned order passed by the Commissioner (Appeals) is valid and legal and there is no infirmity in the order passed by the Commissioner (Appeals) who has relied upon the decisions of this Tribunal as well as the Hon'ble High Courts and on the judgment of Hon'ble Apex Court in the case of *M/s Ranbaxy Laboratories Ltd vs. UOI - 2011 (273) ELT 3 (SC)*.

7. After considering the submissions made by both the parties and perusing the material on record, I find that as per the law laid down by the Hon'ble Apex Court in the case of *M/s Ranbaxy Laboratories Ltd (supra)* wherein Hon'ble Apex Court has held that the Revenue is liable to pay interest under Section 11BB of the Act and the period commences from the date of expiry of three months from the date of receipt of the application for refund under Section 11B(1) of the Act and not on the expiry of said period from the date on which the order of refund is made.

8. Further, I find that the Id. Commissioner (Appeals) in the impugned order has discussed the provisions of Section 27(A) of the Customs Act, 1962 and has also relied upon the decision of Hon'ble Apex Court and also the decision of Hon'ble Gujarat High Court and also discussed about the decision of the Tribunal in the case of *M/s Andhra Organics vs. Commissioner of Central Tax, Visakhapatnam (Final Order No. A/31109/2022 dt. 10.11.2020)* and thereafter came to the conclusion that the respondents/assesseees are entitled to interest as per Section 27(A) of the Customs Act, 1962 at the applicable rate of interest as prescribed vide notification issued under

Section 27(A) from time to time after expiry of three months from the date of receipt of refund application till the date on which the refund has actually been paid. Here, it is pertinent to reproduce the relevant findings of the Id. Commissioner (Appeals) contained in para 9 to para 13 which are reproduced herein below:

9 I find that from the plain reading of the Section wherein liability of revenue to pay interest commence upon the expiry of three months from date of receipt of the refund application. Further, the Hon'ble Supreme Court of India in Civil Appeal No. 6823 of 2010 in case of M/s RANBAXY LABORATORIES LTD. vs UNION OF INDIA AND ORS. (2011(273)ELT 3(SC)) in judgement dated 21.10.2011 has held as under :-

*1. The challenge in this batch of appeals is to the final judgments and orders delivered by the High Court of Delhi in W.P. No.13940/2009 and the High Court of Judicature at Bombay in Central Excise Appeal Nos.163/2007 and 124 of 2008. The core issue which confronts us in all these appeals relates to the question of commencement of the period for the purpose of payment of interest, on delayed refunds, in terms of Section 11BB of the Central Excise Act, 1944 (for short "the Act"). In short, the question is whether 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 or on the expiry of the said period from the date on which the order of refund is made?*

*15. In view of the above analysis, our answer to the question formulated in para (1) 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 assesseees 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.*

10 Relying on above Order of Hon'ble Apex Court, the Hon'ble Karnataka High Court in case of the Commissioner of Central Tax vs Nettapp India Pvt Ltd on 1 March, 2019 has held in para-11 as below :-

11. *There is also considerable force in the submissions on behalf of the respondent that in view of the decision of the Hon'ble Supreme Court Ranbaxy Laboratories vs. Union of India reported in 2011(273)ELT 3(SC) that there cannot be any dispute about the liability of the Revenue to pay interest under Section 11BB of the Act commencing from the date of expiry of three months from the date of receipt of application for refund under Section 11B(i) of the Act.*

11 Similarly relying on above Order of Hon'ble Apex Court, the Hon'ble Gujrat High Court in SPECIAL CIVIL APPLICATION NO. 19916 of 2016 in case of KAMAKSHI TRADEXIM (INDIA) PVT. LTD. vs UNION OF INDIA on 15.03.2017 has held in para-9 as below :-

9. *Moreover, it is settled legal position that an interpretation of any provision of law by the Supreme Court is the law of the land and the respondents are duty bound to respect and follow the same. When the Supreme Court way back on 21.10.2011 has, in the case of Ranbaxy Laboratories Ltd. v. Union of India (supra), held that interest shall be payable on the expiry of a period of three months from the date of receipt of the application under sub-section (1) of section 11BB of the Act and not on the expiry of the said period from the date on which the order or refund is made, the respondents cannot be heard to contend otherwise. The approach of the respondents, therefore, borders on being contumacious. In the opinion of this court, if the respondent authorities duly follow the decisions of the Supreme Court and the jurisdictional High Courts, such unnecessary litigation could be obviated and precious judicial time of the court would not be wasted and assesseees like the petitioner would not be subjected to undue harassment without any justification. The respondent authorities are, therefore, not justified in refusing to grant interest on the rebate claims made by the petitioners in accordance with law laid down by the Supreme Court in C/SCA/19916/2016 JUDGMENT Ranbaxy Laboratories Ltd. v. Union of India (supra) and hence, the petitions deserve to be allowed in terms of the relief prayed for by the petitioners.*



12 Similarly, the Hon'ble Tribunal vide its Final Order no. A/31109/2020 dated 10.11.2020 in the case of M/s Andhra Organics Ltd., Vs Commissioner of Central Tax Visakhapatnam – GST held as under:

*5. Evidently, the Learned Commissioner has taken the date of receipt of Final Order of the Tribunal as the relevant date for calculation of interest to be paid on the refunded amount. This is clearly contrary to the provisions of Section 27A which has only one date for calculation of interest which is the date of refund application. If the refund is not paid within three months from the date of receipt of refund application interest has to be paid.*

*6. In view of the above, I find that the appellant is entitled to interest on the delayed refunds from three months from the date of receipt of refund application till the date of which the refund has actually been paid and order the Department to pay the interest.*

13 From the above discussions and findings, I observe that both the Appellants no. 1 and 2 are entitled to interest as per Section 27A in the Customs Act, 1962 at the applicable rate of interest as prescribed vide notification issued under Section 27A from time to time after expiry of three months from the date of receipt of refund application till the date on which the refund has actually been paid.

9. In view of above discussion and judgments cited supra, I am of the considered view that there is no infirmity in the impugned order and there is no need of any interference in the impugned order. Hence, I dismiss all five appeals filed by the Revenue by upholding the impugned order.

10. The appeals are accordingly dismissed.

(Order pronounced on 14.02.2023)

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