

Interest on delayed refund shall be granted from the date of filing of refund application, and not from the date of Commissioner (Appeals) order– CESTAT Ahmedabad

5 May 2022



## Summary

The Customs, Excise & Service Tax Appellate Tribunal (CESTAT) Ahmedabad has held that the appellant is entitled for interest on refund claim from the date of refund application. As per the provisions<sup>1</sup>, the refund should be disposed off within a period of three months but in case of delay, appellant is entitled for interest on refund claim till the date of sanction of refund. The CESTAT ruled that once the Commissioner (Appeals) has allowed the refund, it would be concluded that the appellant was entitled for the refund right from the date of filing of the application. Therefore, for the purpose of interest, date of filing of refund application shall be considered and not the date of Commissioner (Appeals) order.

## Facts of the case

- The appellant<sup>2</sup> has claimed remission of duty in respect of destroyed goods. Therefore, the appellant reversed the CENVAT credit of input on destroyed goods.
- However, the appellant realised that credit was not supposed to be reversed, hence it claimed the refund of such reversal.
- The refund application was initially rejected. However, the Commissioner (Appeals) allowed the refund.
- The appellant approached the department for interest on refund claim, which was rejected. Then the aggrieved appellant filed appeal before the Commissioner (Appeals). It placed reliance on decisions<sup>3</sup> and contended that interest on refund is entitled as refund was granted after a period of three months from filing of application.
- **Interest payable upon delay in granting refund claim:** The provisions provide that refund claim shall be disposed with a period of three months from the date of filing application. If there is delay, then appellant shall be entitled to refund. In a similar case<sup>5</sup>, the Apex Court had also laid that the revenue's liability to pay interest commences from expiry of three months from the date of application of refund till the date of sanction.
- **Petitioner entitled to interest from date of application:** The refund was not granted within a period of three months from date of application. Thus, for the purpose of interest, date of filing of refund application shall be considered and not the date of Commissioner (Appeals) order.

## CESTAT Ahmedabad observations and ruling<sup>4</sup>:

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<sup>1</sup> Section 11BB of Central Excise Act

<sup>2</sup> Atmiya Engineering and Plastics

<sup>3</sup> Ranbaxy laboratories Ltd., Humdard (Waqf) Laboratories, M&B Footwear P. Ltd etc

<sup>4</sup> Excise Appeal No. 10945 of 2021

<sup>5</sup> Ranbaxy Laboratories Ltd. 2011 (273) ELT 3(SC)

## Our comments

Earlier the Apex Court in case of Ranbaxy Laboratories Ltd. and Humdard (Waqf) Laboratories had held that in case of delay in sanction of the refund claim, the appellant is entitled for the interest from the date of filing of refund claim till the date of sanction.

Similar decision has also been pronounced by CESTAT Allahabad in case of M & B Footwear Pvt. Ltd.

The present ruling is also in accordance with the provisions under the Central Excise laws as well as aligns with the decision by the Apex Court.

This is a welcoming and important decision for taxpayers facing similar issue, which shall bring required relief and set precedent in similar matters. Further, an analogy can also be drawn under GST regime since similar provisions exist even under the GST laws.

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