IN THE HIGH COURT AT CALCUTTA

SPECIAL JURISDICTION
(Original Side)

Reserved on : 15.12.2025.

Pronounced on : 22.12.2025

CEXA 31 OF 2024

With

IA No. GA 2 of 2024

Commissioner of Central Excise Bolpur Commissionerate

...Appellant

-Vs-

M/s. Steel Authority of India Limited

...Respondent

Present:-

Mr. Uday Sankar Bhattacharjee, Adv.
Mr. Tapan Bhanja, Adv.

...for the appellant

Mr. Rahul Tangri, Adv.

..... for the Respondent

Coram: THE HON'BLE JUSTICE RAJARSHI BHARADWAJ,
And
THE HON'BLE JUSTICE UDAY KUMAR

Rajarshi Bharadwaj, J:

1. The appeal arises from an order of the Customs, Excise and Service Tax Appellate Tribunal, East Zonal Bench, Kolkata, dated September 15, 2023 in Excise Appeal No. 396 of 2006 with Excise Appeal No. 914 of 2011 (M/s Steel

Authority of India Limited v. Commissioner of Central Excise, Bolpur), whereby the Tribunal held that no interest was payable by the assessee on the confirmed duty demand on the ground of revenue neutrality and accordingly, set aside the demand of interest while rejecting the assessee's refund claim.

2. The facts of the case in a nutshell are that the respondent-assessee is a manufacturer of excisable goods falling under Chapters 72, 73 and 86 of the Schedule to the Central Excise Tariff Act, 1985 and holds Central Excise Registration No. AAACS7062FXM025. The assessee manufactures iron and steel products such as billets, rounds and HT bars, which are cleared to various conversion units on stock transfer basis for further processing after payment of central excise duty at the applicable rates (16%, 8% and 12% during the relevant period) and education cess as introduced with effect from July 09, 2004. The conversion units use the said goods for further manufacture of goods on behalf of the assessee.

3. For manufacture of its final products under Chapters 72 and 73, the assessee often sends billets, rods and HT bars to various job workers under its own excise invoices, on payment of appropriate duty on the declared value. The present dispute concerns the valuation, for central excise purposes, of goods cleared by the assessee to job workers in cases where there is no sale involved and therefore valuation could not be made under Section 4(1)(a) of the Central Excise Act, 1944, necessitating resort to the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000.

4. During the relevant period after July 01, 2000, when the amended Section 4 and the Valuation Rules, 2000 came into force, the assessee not only cleared goods to job workers but also sold identical goods to independent buyers at its factory gate and thus all clearances were not captively consumed. In such circumstances, the department took the position that Rule 8 of the Valuation Rules, 2000, which applies where the manufacturer uses all the goods for captive consumption by itself or on its behalf, was inapplicable and that, there

being no specific rule squarely covering the situation, Rule 11 (the residuary rule) read with Section 4(1)(a) must be applied so that the value of goods cleared to job workers is determined on the basis of the transaction value of similar goods sold to independent buyers at the factory gate. The department further relied on the scheme of Section 4(1)(b) of the Act, Rule 8 and the earlier Rule 6(b) of the Valuation Rules, 1975, CBEC Circular No. 258/92/96-CX dated October 30, 1996 and Rule 4 of the Rules, 2000, to contend that even where goods are not sold, valuation aims to approximate the value that would have been realized had there been a sale, by reference to comparable goods or cost-based methods brought as close as possible to Section 4(1)(a) value.

5. On these premises, a show cause notice dated August 04, 2005 was issued to the assessee proposing recovery of short-paid duty under Section 11A of the Act, together with interest under Section 11AB and penalty under Section 11AC. The adjudicating authority, by order-in-original dated March 31, 2006, confirmed central excise duty of Rs. 15,65,36,574/- and education cess of Rs. 1,11,973/- under Section 11A, demanded interest under Section 11AB and imposed penalty of Rs.15,66,48,557/- under Section 11AC read with Rule 173Q of the Central Excise Rules, 1944 and Rule 25 of the Central Excise Rules, 2001/2002. The assessee approached the Committee on Disputes, which permitted it to contest only the penalty aspect before the Tribunal, leading to Excise Appeal No. 396 of 2006, the Tribunal, by its order dated June 11, 2007, set aside the penalty but left the duty demand intact. Pursuant to that order, the assessee deposited duty of Rs.14,50,50,502/- as confirmed in the order-in-original with the jurisdictional Assistant Commissioner.

6. Thereafter, the assessee filed a refund claim for Rs.15,66,48,547/- on various grounds. A show cause notice was issued proposing rejection of the refund claim and after considering the assessee's reply, the Assistant Commissioner, Durgapur-IV Division, by order dated June 23, 2008, rejected the refund on the ground that the duty demand under the order-in-original

dated March 31, 2006 had attained finality and could not be indirectly assailed through a refund proceeding. The Commissioner (Appeals), by order dated July 28, 2011, upheld the rejection. Against the said appellate order, the assessee filed Excise Appeal No. 914 of 2011 before the Tribunal.

7. Meanwhile, the Tribunal's earlier order dated June 11, 2007 in Excise Appeal No. 396 of 2006 was carried to the Hon'ble Supreme Court, which by order dated July 28, 2022 restored the appeal to the Tribunal with a limited remit to decide only the question of interest. Upon remand, the Tribunal heard together Excise Appeal No. 396 of 2006 (on interest) and Excise Appeal No. 914 of 2011 (on refund) and by its composite order dated September 15, 2023 (bearing Nos. 76646-76645/2023) held that the assessee was not liable to pay interest in view of a revenue-neutral situation, allowed Appeal No. 396 of 2006 to that extent and at the same time rejected Appeal No. 914 of 2011 by holding that the assessee was not entitled to refund of the duty already paid.

8. The learned counsel appearing on behalf of the appellant (the revenue) submits that the Tribunal has committed a manifest error of law in setting aside the interest imposed under Section 11AB of the Central Excise Act, 1944 when the respondent/assessee has admittedly discharged the duty demand under Section 11A and that demand has attained finality. Section 11AB operates in tandem with Section 11A, and once duty is found not levied, short-levied, not paid, short-paid or erroneously refunded and is thereafter determined or paid under Section 11A, the liability to interest from the prescribed date follows as a matter of course, irrespective of the reasons for short-payment or subsequent availability of Modvat/Cenvat credit. Reliance is placed on the decisions of the Hon'ble Supreme Court in *CCE v. SKF India Ltd*. reported in (2009) 13 SCC 461 and *Steel Authority of India Ltd. v. CCE, Raipur*, reported in 2019 (366) E.L.T. 769 (S.C.), wherein it has been held that payment of differential duty at a later stage under Section 11A(2B) or otherwise squarely attracts interest under Section 11AB and that such liability is absolute and compensatory in nature.

9. The appellant submits that the Tribunal has misdirected itself in treating revenue neutrality as a ground to waive statutory interest, whereas the concept of revenue neutrality has relevance, if at all, to limitation or to the existence of duty liability but not to the levy of interest once duty is admittedly paid belatedly. It is submitted that interest is inbuilt and ancillary to the duty, once the principal duty liability is established and paid after the due date, interest automatically follows and cannot be waived merely because the recipient unit could have availed Cenvat credit. It is further urged that the Tribunal erred in blindly applying its earlier decision in *Jai Balaji Industries Ltd. v. CCE*, Bolpur reported in 2023 (6) TMI 1102 (CESTAT Kolkata), which was rendered on its own facts and in which, according to the revenue, the question of interest in the face of a confirmed and uncontested duty demand was not considered in the manner mandated by the precedents of the Supreme Court. The petitioner submits that in the present case there is no dispute that the assessee paid the duty belatedly under Section 11A, therefore, in terms of Section 11AB, read consistently with the law declared in *SKF India and Steel Authority of India Ltd.(supra),* the respondent is liable to pay interest and the Tribunal's contrary view is perverse, contrary to statute and liable to be set aside.

10. Learned counsel appearing for the respondent assessee submits that since identical goods were sold to independent buyers at the factory gate, the Section 4 value for payment of duty on the self-same goods sent to job workers must be the same, being the transaction value under Section 4(1)(a) of the Central Excise Act, 1944.

11. The respondent assessee contended that when Section 4(1)(a) value is clearly available from sales to independent customers at the factory gate, resort to Rule 8 of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 for clearances to job workers is unwarranted, as there is no specific rule mandating otherwise for such situations and the sale price to customers should prevail for duty assessment on job worker clearances. They

asserted that they had adopted the said factory gate sale price for valuation of goods cleared to job workers and discharged Central Excise duty accordingly, resulting in payment of duty on a higher assessable value than legally payable, thereby leading to excess duty payment which is refundable.

12. The respondent/assessee further pleaded that the revenue had not produced any cogent evidence of suppression of facts with intent to evade duty, as all requisite RT-12 returns and other documents had been duly submitted to the department, rendering invocation of the extended limitation period unjustified. Accordingly, praying for quashing the entire proceedings initiated vide the show cause notice dated August 04, 2005.

13. Having heard learned counsel for the parties and upon perusal of the pleadings and materials on record, this Court is not persuaded to interfere with the impugned order of the Tribunal dated September 15, 2023. The duty demand under the order-in-original dated March 31, 2006 has attained finality and the assessee has already discharged the same. The limited controversy before the Tribunal on remand was confined to the question of interest and the assessee's refund claim. In the present case, the Tribunal has recorded a clear finding that the situation is revenue-neutral, inasmuch as the duty paid by the assessee was available as Cenvat credit to its downstream units and there is no net loss of revenue to the exchequer.

14. Thus, the Tribunal's view that levy of interest would be unwarranted and purely compensatory interest cannot be insisted upon when there is, in substance, no pecuniary prejudice to the revenue. The Tribunal also found that the assessee was not entitled to refund of the duty already paid, having regard to the finality of the order-in-original and the statutory scheme of Section 11B.

15. For the foregoing reasons, this Court is not satisfied that the Tribunal has committed any jurisdictional error or perversity warranting interference in appeal. No substantial question of law arises from the appeal. All connected applications are accordingly disposed of.

16. There shall be no order as to costs.

17. Urgent certified copy of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(RAJARSHI BHARADWAJ, J)

(UDAY KUMAR , J)

Kolkata

22.12.2025
PA(BS)