

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL  
NEW DELHI.**

**PRINCIPAL BENCH - COURT NO. II**

**Customs Appeal No. 51204 of 2022-SM**

(Arising out of order-in-appeal No. CC(A) CUS/D-1/EXPORT/NCH/69/2020-21 dated 17.06.2021 passed by the Commissioner of Customs (Appeals), New Delhi).

**Gopal Sardana**

Prop. of Sardana Enterprises  
525, Pocket-1, Paschim Puri  
New Delhi-110063.

**Appellant**

**Commissioner, Customs**

Air Cargo Export, New Customs House  
New Delhi-110037.

**Respondent**

**APPEARANCE:**

Sh. Akash Deep and Sh. Anil Kumar, Advocates for the appellant  
Sh. Divey Sethi, Authorised Representative for the respondent

**CORAM:**

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

**FINAL ORDER NO. 50993/2022**

**DATE OF HEARING/DECISION: 10.10.2022**

**ANIL CHOUDHARY:**

The issue involved in this appeal is whether the appellant is entitled to interest and period of interest.

2. Brief facts of the case are that vide Order-in-original dated 28.03.2013, due to dispute in valuation additional duty was demanded Rs.5,39,749/- alongwith equal amount of penalty under Section 114AA. Further, redemption fine of Rs.15 lakhs was imposed. This Tribunal vide Final Order Nos. 50107-50108/2018

dated 12.01.2021 allowed the appeal in part by reducing redemption fine to Rs.7,50,000/- and reduced penalty to Rs. 1 lakh under Section 114AA of the Act. Thus, the appellant got relief of Rs.11,89,749/-. On application by the assessee, refund of this amount was allowed on 12.01.2022. This refund was granted pursuant to Order-in-appeal dated 17.06.2021. It is urged that learned Commissioner (Appeals) has not considered the grant of interest, although he has taken notice of such claim in para 5.3 and 5.3.1 of the impugned order.

3. Learned Counsel further assailing the impugned order submitted that interest should also be granted under the provisions of Section 129EE of the Customs Act, which provides for grant of interest from the date of deposit till the date of refund. Further, it is urged that the amount is refundable pursuant to final order of this Tribunal, is in the nature of revenue deposit lying with the Department.

4. Learned Authorised Representative appearing for the Revenue relies on the impugned order. He further urges that as the issue of interest have not been considered in the impugned order, the matter may be remanded for consideration.

5. Having considered the rival contentions and in view of the precedent decision of the Division Bench of this Tribunal in the case of Parle Agro – Final Order No. 70180 -70181/2021 dated 25.05.2021, wherein it has been held that the amount deposited during investigation / audit, on being successful in appeal is

refundable alongwith interest @ 12% p.a. from the date of deposit till the date of refund. Further, co-ordinate Bench of this Tribunal in Final order No. 50737/2022 following the ruling of the Division bench in **Parle Agro and Sandvik Asia Ltd. -2007 (8) STR 193 (SC)** have held that the assessee is entitled to grant of interest under Section 129EE of the Act for the period from the date of deposit till the date of refund.

6. Accordingly, in view of my findings and observations, I set aside the impugned order and allow the appeal. The appellant is held entitled to interest on refund from the date of deposit till the date of refund @ 12% p.a.

7. In the result, the appeal is allowed.

(Dictated and pronounced in open Court).

(Anil Choudhary)  
Member (Judicial)

Pant