2026 (7) TMI 666 - CESTAT HYDERABAD

M/s International Advanced Research Centre for Powder Mettalurgy & New Materials, Hyderabad Versus Commissioner of Customs Hyderabad - Customs

No.- Customs Appeal No. 23548 of 2014

Dated:- July 8, 2026

Order No. Final Order No. A/30349/2026

Customs duty refund claims must comply with statutory limitation and documentation requirements to remain maintainable.

Refund of Special Additional Duty under the customs law is discussed as being governed strictly by the statutory refund framework, including the limitation period under section 27 of the Customs Act and the prescribed supporting documents such as the assessment order and chartered accountant certificate on unjust enrichment. The note also refers to the principle that duties retained otherwise than in accordance with law must be addressed through that statutory mechanism, consistent with Article 265. It states that claims filed beyond the prescribed period or without the required annexures are not maintainable.

Issues: Whether the appellant was entitled to refund of Special Additional Duty paid on imported goods when the refund application was filed beyond the prescribed period and without the required supporting documents.

Analysis: The refund claim was filed after the period prescribed under section 27 of the Customs Act, 1962 and was not supported by the prescribed annexures, including the assessment order and the chartered accountant certificate relating to unjust enrichment. The Tribunal relied on the Larger Bench decision holding that refund claims under the customs law must be made and adjudicated strictly in accordance with the statutory scheme, which constitutes the complete mechanism for refund of duties and for correction of errors of fact or law. The Tribunal also noted the principle that duties collected or retained otherwise than in accordance with the governing provisions are to be dealt with under the statutory refund framework recognised by Article 265 of the Constitution of India.

Conclusion: The refund claim was held to be barred and unsustainable, and the appeal was rejected.

Ratio Decidendi: Refund of customs duty, including SAD, must be sought strictly within the limitation and procedural framework prescribed by the customs statute, and claims filed beyond that framework are not maintainable.

Judgment / Order

Hon'ble Mr. P. Anjani Kumar, Member (Technical) And Hon'ble Mr. Angad Prasad, Member (Judicial)

For the Appellant : None

For the Respondent : Shri A. Rangadham, AR

ORDER

PER: P. ANJANI KUMAR:

None appeared on behalf of the Appellant. On going through the records of the case, it appears that vide Daily Order dt.29.06.2026, it was directed that the case be listed on 08.07.2026 and that no further opportunities for hearing will be given and the issue may be decided on merits based on available record. Accordingly, we proceed to decide the case on merits. Therefore, heard learned AR for the Revenue and perused the records of the case.

2. The brief facts of the case are that the appellant, M/s International Advanced Research Centre for Powder Mettalurgy & New Materials, have imported various capital goods and spares during the period June, 2008 to December, 2009. During the course of audit conducted by C&AG, the appellants have come to know that they were not required to pay the Additional Duty of Customs (SAD) @ 4% under section 3(5) of the Customs Tariff Act, 1975. Accordingly, the appellants have written a letter dt.19.06.2013, which was received in the office of the Commissioner of Central Excise on 18.08.2013. However, the same was found to be not accompanied by the documentary evidence in support of the claim of the appellant and a CA certificate, as required. Therefore, the aspect of unjust enrichment could not be verified. Accordingly, the refund claim was rejected, vide OIO dt.26.03.2014, on the issue of limitation. On an appeal, Commissioner (Appeals), vide Impugned Order dt.30.07.2014, upheld the OIO rejecting the refund claim. Hence, this appeal.

3. The issue involved in the present case is whether the appellants are eligible for refund of SAD paid on the goods imported when refund application is filed after a lapse of more than three years.

4. Learned AR submits that the refund claim filed by the appellant suffers from the following infirmities.

> (i) The refund application was filed after expiry of stipulated period of one year from the date of payment of duty in terms of section 27 of the Customs Act, 1962.
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> (ii) No order pertaining to assessment of imported goods was filed in support of the refund claim.
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> (iii) Refund application was filed in the form of a letter and not in the prescribed format.
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> (iv) A certificate by CA evidencing that the duty paid by the appellant was not passed on to their customers/buyers was not enclosed.

5. Learned AR further submits that the issue is no longer res integra and has been decided in favour of the Revenue by the Larger Bench of the Tribunal in the case of **Oil & Natural Gas Corporation Ltd Vs GST & CE, Tiruchirapalli [20214 (6) TMI 1417 – CESTAT Chennai (LB)].**

6. We find that admittedly, the refund application was filed after a lapse of the period specified under section 27 of the Customs Act, 1962. No formal refund claim was filed with all the required annexures. However, even if we consider that the same is procedural, we find that the Larger Bench of the Tribunal in the case of Oil & Natural Gas Corporation Ltd Vs GST & CE, Tiruchirapalli (supra) after analyzing all the relevant judgments in this regard and the decision of Hon'ble Apex Court in the case of **Mafatlal Industries Ltd Vs UOI [1996 (12) TMI 50 – SC],** held as follows:

> *"74. This inference is further strengthened from the observation of the Hon'ble Supreme Court in interpreting the term 'law' appearing at Article 265 of the Constitution of India. Their Lordships held that the provisions of the enactments including Section 11B of the Central Excise & Salt Act, 1944 and Section 27 of the Customs Act, 1962 do constitute 'law' within the meaning of Article 265 of the Constitution of India and hence any tax collected, retained or not refunded in accordance with the said provisions must be held to be collected, retained or not refunded as the case may be, under the authority of law. In other words, all 'illegal levy' are held to be collected without authority of law and to be refunded as prescribed under Section 11B of the Central Excise Act, 1944 and Section*

27 of Customs Act, 1962. Further, it is very clearly laid down by the Hon'ble Apex Court that all refund claims except that of unconstitutional levy had to be and must be filed and adjudicated under the provisions of the Central Excise & Salt Act or the Customs Act, as the case may be. Further it is laid down that these acts provide a complete mechanism for correcting any errors whether of fact or law and that not only an appeal is provided to the Tribunal which is not a departmental organization, but to this court which is a civil court."

7. In view of the above, we find that the appeal is devoid of merit. Hence, the appeal is dismissed.

(Operative Part of the Order was pronounced in the Open Court)

Citations:

1. **1996 (12) TMI 50 - Supreme Court**
   MAFATLAL INDUSTRIES LTD. Versus UNION OF INDIA
2. **2024 (6) TMI 1417 - CESTAT CHENNAI (LB)**
   M/s. Oil and Natural Gas Corporation Limited Versus The Commissioner of GST & Central Excise, Tiruchirapalli