

19.09.2025
sayandeep
Sl. No. 1583-1584
ML
Ct. No. 05

WPA 18133 of 2022
With
CAN 1 of 2024
With
CAN 2 of 2025
MCPI Pvt. Limited
Vs.
Union of India & Ors.
With
WPA 5513 of 2021
MCPI Pvt. Limited & Anr.
Vs.
Union of India & Ors.

Mr. Abhratosh Majumder, Sr. Advocate
Mr. Rahul Dhanuka
Ms. Sreeja Chakraborty

..... for the petitioners

Mr. Vipul Kundalia, Sr. Advocate
Ms. Satabdi Sen

.... For the CGST authority

1. Challenging several show cause notices under the provisions of Section 11A of the Central Excise Act, 1944 (hereinafter referred to as the said Act) demanding differential duty along with the consequential orders from the subject matter of challenge before the customs excise and service tax appellate tribunal eastern zonal Bench, Kolkata (in short the “tribunal”). In connection with the said matter, the tribunal by an order dated 5th October, 2009 was of the view that the said case was not a fit case for total waiver of duty. However, since according to the tribunal, the show cause notice dated 4th March, 2003 for the period from April 2000 to January 2002 of Rs.

11,27,94220/- was, prima facie, time barred accordingly, the demands in the other show case notices which were within the normal period of limitation were sustained.

2. Having regard thereto, the petitioner in the interest of the revenue was directed to deposit Rs. 19.42 crores. It was further provided that upon payment the remaining amount of duty, interest and penalty shall be waived and the recovery stayed. In compliance of such direction, the petitioner claims to have duly deposited the said amount. The aforesaid appeal finally came to be disposed of by the tribunal by an order dated 28th March, 2019. The Tribunal by taking note of the case made out had in effect declared that the appellant shall not be entitled to the benefit of revenue neutrality and accordingly it had upheld the demand for the differential duty on merit. However, insofar as the demand for duty beyond normal time limit is concerned, the same was set aside. Consequential penalties were also set aside. In the interregnum, however, on the basis of a recovery notice issued on 4th August, 2022, the sum of Rs. 169434730 was recovered from the petitioners' bank account by debiting the same. Challenging the above recovery, the aforesaid writ petition has been filed. The petitioner had since applied before the tribunal seeking for a clarification. However, when the above matter came up for consideration on 30th

August, 2022, a Coordinate Bench of this Court was pleased to request the tribunal to dispose of such application for clarification filed by the petitioner expeditiously after giving an opportunity of hearing to the interested parties. Insofar as the recovery proceedings are concerned, the same were made subject to the order to be passed by the tribunal as well as the final order to be passed in the writ petition.

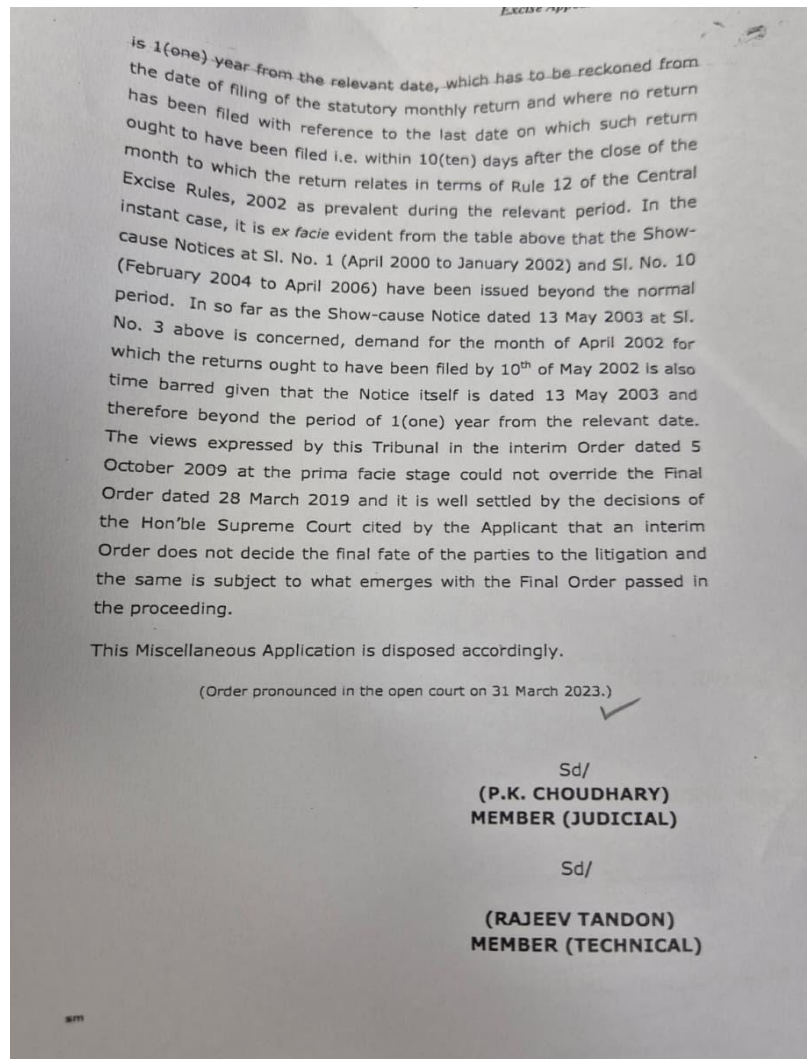
3. The aforesaid application for clarification has since been disposed of by the Tribunal by its order dated 31st March, 2023. The relevant portion is extracted below:

8. It is evident from factual narration in the Final Order dated 28 March 2019 that there were 11 Show-cause Notices covering the period April 2000 to November 2006. The details of these 11 Show-cause Notices as clearly forthcoming from the case records are tabulated hereunder:

Sl. No.	Show-cause Notice No.	SCN Dt	Period	Amount (Rs.)
1.	V.Ch29(15)26/CE/HALDIA/ADJ N/2003/958	04.03.03	April 2000 to Jan 2002	11,27,94,220
2.	V(15)113/DRAFT/SCDN/MCC-PTA/MDP/02/962	04.03.03	Feb. 2002 to Mar 2002	69,52,310
3.	V(15)4/Draft/SCDN/MCC-PTA/HAL-II/03/2030	13.05.03	April 2002 to Jun 2002	1,43,46,465

4.	CE(20)2-MCCPTA/R-V/Hal-II/2003/11	07.08.03	July 2002	69,41,101
5.	CE(20)2-MCCPTA/R-V/Hal-II/2003/43	08.09.03	August 2002	41,23,470
6.	CE(20)2-MCCPTA/R-V/Hal-II/2003/63	07.10.03	Sept. 2002	42,73,401
7.	V.Ch.(15)45/MCC PTA/Hal-II/03/4746	07.11.03	Oct. 2002 to Nov 2002	1,05,20,903
8.	V.Ch.29(15)740/CE/Hal/Adjn/03/119	05.01.04	Dec. 2002 to Mar 2003	3,45,74,665
9.	V.Ch.29(15)201/CE/Hal/Adjn/04/4218	15.04.04	April 2003 to Jan 2004	2,86,90,893
10.	V.Ch.(12)15/HAL/AEHQ/MCC-PTA/07/10517	27.07.07	Feb. 2004 to Apr 2006	7,99,05,643
11.	V.Ch.(12)15/Hal/AEHQ/MCC-PTA/07/7922	06.06.07	May 2006 to Nov 2006	38,45,774
Total:				30,69,68,845

9. By our Final Order dated 28 March 2019, we have held in no uncertain terms at para 10 that we set aside the demand for duty beyond the normal time limit. Section 11A of the Central Excise Act, stipulates that the normal time limit for service of a Show-cause Notice



4. After the aforesaid clarification was offered, the petitioner has come up by way of this connected application, inter alia, praying for disbursal of refund of Rs. 1583859 recovered from the petitioner. By an order dated 11th April, 2025 affidavits were invited from the respondents. Pursuant to such direction, the respondent Nos. 2, 3 and 4 have filed an affidavit-in-opposition in Court today which is taken on record. The affidavit-in-reply filed by the petitioners in Court today is also taken on record.
5. Mr. Majumdar, by drawing attention of this Court to paragraph 8 of the aforesaid affidavit-in-opposition would submit that though the respondents have

denied and disputed the sum of Rs. 15,63,80,959/- to be due, however, they have admitted that a sum of Rs. 14,27,61, 282/- is actually payable.

6. Having regard thereto, at this stage he only seeks that the aforesaid sum which has been admitted and acknowledged by the respondents be disbursed in favour of the petitioners.
7. Mr. Kundalia, learned senior advocate representing the respondents on the other hand would submit that the aforesaid acknowledgement is subject to the petitioner applying and complying with the other statutory formalities.
8. Having heard the learned advocates appearing for the respective parties, I am of the view that on the basis of the disclosure made in the affidavit-in-opposition of the respondent Nos. 2, 3 and 4 to the connected application being CAN 2 of 2025, the application can be disposed of by permitting the petitioner to make an application in requisite format. If such application is filed within a period of 10 days from date, the respondents shall be obliged to process the same within a period of eight weeks thereafter.
9. Respondents are directed to supply to the petitioner with the copy of the prescribed proforma for applying for refund within 7 working days from the date of communication of this order.
10. The balance claim of the petitioner shall be considered with the writ petition.

11. In view of disposal of the application being CAN 2 of 2025, the application being CAN 1 of 2024 which is an application for early disposal of the writ petition be also disposed of.

(Raja Basu Chowdhury, J.)