ORDER OD-2

CEXA/26/2025
IA NO:GA/1/2025

IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION
ORIGINAL SIDE

COMMISSIONER OF CGST AND Cx,
KOLKATA SOUTH COMMISSIONERATE
VS.
M/S. ELECTROSTEEL CASTINGS LIMITED

BEFORE:
THE HON'BLE JUSTICE RAJARSHI BHARADWAJ
AND
THE HON'BLE JUSTICE UDAY KUMAR
Date : 18th November, 2025.

Appearance:
Mr. Vipul Kundalia, Sr. Adv.
Mr. Tapan Bhanja, Adv.
Ms. Anushka Mandal, Adv.
Mr. Anindya Kanan, Adv.
… for Appellant
Mr. Abhratosh Majumdar, Sr. Adv.
Mr. Rahul Dhanuka, Adv.
Mr.Niraj Behati, Adv.
Ms Sreeja Chakraborty, Adv.
…for Respondent

The Court: We have heard Mr. Kundalia, learned Senior Advocate appearing for the appellant.

This appeal is admitted on the following substantial questions of law:

"i) Whether the interest is payable in the facts and circumstances of the case when said refund claim has been sanctioned within three months from the receipt of all requisite documents and accordance with the Explanation to Section 11BB of the Central Excise Act, 1944, the order passed by the Commissioner (Appeals), Appellate Tribunal, National Tax Tribunal or, as the case may be, by the court, is to be treated an order passed under the said sub-section (2) for the purposes of this section?

ii) Whether the Learned Tribunal is justified/ correct in awarding interest @9% in favour of the respondent when the said refund claim has been sanctioned within three months from the receipt of all requisite documents?

iii) If the answer to the aforesaid question is in affirmative, whether the direction of the Learned Tribunal upon the refund sanctioning authority to pay interest @9% is contrary to the Notification No. 24/2014-C.E.(NT) dated 12.08.2014 or not?

iv) Whether by entertaining the appeal against the order dated 06.01.2025 passed by the Assistant Commissioner, Park Street Division the Learned Tribunal exceeded its jurisdiction as well as acted contrary to Rule 9 of The Customs, Excise And Service Tax Appellate Tribunal (Procedure) Rules, 1982 as well as Section 35B of the Central Excise Act, 1944 and as such whether the impugned order dated 04.7.2025 and subsequent orders passed by the Learned Tribunal are without jurisdiction or not?

V) Whether the Tribunal order is correct when it seems that the respondent had not revealed all the facts before the Tribunal about the appeal filed by them before the Commissioner (Appeal-I) for allowing interest, rather suppressed the facts to take undue advantage?"

The appellant is directed to file requisite number of informal paper books prepared out of court enclosing therein all relevant papers and documents used before the learned trial court within 10 (ten) weeks from date by serving copies thereof to the learned Advocate for the respondents.

Settlement of index and all other formalities are dispensed with.

Since the respondent is represented through their learned Advocates, service of Notice of Appeal stands dispensed with.

List this matter after 12 (twelve) weeks.

IA No: GA/1/2025 stands disposed of.

(RAJARSHI BHARADWAJ, J.)

(UDAY KUMAR, J.)

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