ALO Law Office- IDT Tax I Arbitration I Litigation

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CESTAT Mumbai Orders Refund of Double Customs Duty

In a landmark decision, the Customs, Excise & Service Tax Appellate Tribunal (CESTAT), Mumbai, has ruled in favor of Yazaki India Private Limited, granting a refund of Rs. 5,35,010/- paid twice as customs duty for the same import transaction. This decision highlights the importance of fairness in tax administration and reinforces the principle that the government cannot unjustly retain amounts paid due to inadvertent errors.

Background of the Case

Yazaki India, a Pune-based company, imported insulating fittings under Customs Tariff Heading (CTH) 8547 through the Nhava Sheva port in December 2018. The company paid customs duty of Rs. 5,35,010/- on 29.12.2018 for two Bills of Entry (B/E No. 9449124 and B/E No. 9454113). However, due to an inadvertent error, the same amount was paid again on 31.12.2018. Upon realizing the mistake, Yazaki India filed a refund claim on 14.01.2020, seeking reimbursement of the duplicate payment.

The adjudicating authority and the Commissioner of Customs (Appeals) rejected the refund claim, citing that it was filed beyond the one-year limitation period prescribed under Section 27(1) of the Customs Act, 1962. Aggrieved by this decision, Yazaki India approached the Tribunal.

Key Arguments

Yazaki India argued that the second payment was not a legitimate customs duty but a mistaken deposit, which should not be subject to the limitation period under Section 27(1). The company relied on precedents, including the Gujarat High Court's judgment in *Swastik Sanitary Wares Ltd. vs. Union of India*, which held that mistaken payments are not governed by the limitation period for duty refunds.

The Revenue, on the other hand, maintained that the refund claim was time-barred and could not be entertained under the Customs Act.

Tribunal's Observations

1. The double payment was confirmed by the Senior Accounts Officer and other sections of the Custom House.
2. The payment made on 31.12.2018 was not a valid customs duty but a mistaken deposit, as the duty for the same import transaction had already been paid on 29.12.2018.
3. The limitation period under Section 27(1) applies to legitimate duty payments, not mistaken deposits.

The Tribunal also referred to the CBIC's Citizen Charter and Public Notice No. 62/2012 issued by JNCH Customs, which state that double payments are treated as deposits with the government and should be refunded.

Judgment

The Tribunal set aside the impugned order dated 15.06.2022 and allowed the refund of Rs. 5,35,010/- to Yazaki India. It emphasized that retaining the duplicate payment would be inequitable and contrary to the principles of fair tax administration.

Implications of the Judgment

This ruling is a significant win for taxpayers, as it underscores the importance of justice and equity in tax administration. It establishes that:

1. Mistaken payments are not subject to the limitation period for duty refunds.
2. Tax authorities must act in accordance with the principles of fairness and transparency outlined in the CBIC's Citizen Charter.
3. Taxpayers have the right to reclaim amounts paid in error, provided they act within a reasonable timeframe.

Conclusion

The Tribunal's decision in favor of Yazaki India sets a precedent for similar cases involving double payments of customs duty. It reinforces the principle that the government cannot unjustly retain funds paid due to inadvertent errors. This judgment is a reminder of the importance of robust tax administration that protects the rights of honest taxpayers and promotes ease of doing business.

This Article has been written by Shri Ravi Shekhar Jha, Advocate Delhi High Court based on his interpretation of the law. He can be reached at his email id intelconsul@gmail.com or on his Mobile +91-9999005379.

Source: CESTAT Mumbai

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL MUMBAI

REGIONAL BENCH - COURT NO. I

CUSTOMS APPEAL No. 86780 of 2022

(Arising out of Order-in-Appeal No. 552 (CRC-I)/2022(JNCH)/Appeals dated 15.06.2022 passed by the Commissioner of Customs (Appeals), Mumbai Customs Zone-II, Mumbai)

Yazaki India Private Limited **.... Appellants**
Survey No.166, High Cliff Industrial Estate
Wagholi-Rahu Road, Kesnand
Pune – 412 207.

VERSUS

Commissioner of Customs **.... Respondent**
Nhava Sheva-III Commissionerate
Jawaharlal Nehru Customs House (JNCH)
Nhava Sheva, Taluk Uran
Raigad District – 400 707.

APPEARANCE:

Shri Ramachandran Mattiyil, Advocate for the Appellants

Shri Dinesh Nanal, Authorized Representative for the Respondent

CORAM: HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)

FINAL ORDER NO. A/86296/2025

Date of Hearing: 13.05.2025
Date of Decision: 22.08.2025

PER: M.M. PARTHIBAN

This appeal has been filed by M/s Yazaki India Private Limited, Pune (herein after, for short, referred to as 'the appellants') assailing the Order-in-Appeal No. 552 (CRC-I)/2022(JNCH)/Appeals dated 15.06.2022 (referred to, as 'the impugned order') passed by the Commissioner of Customs (Appeals), Mumbai Customs Zone-II, Mumbai.

2.1 Brief facts of the case, leading to this appeal, are summarized herein below:

2.2 The appellants regularly import goods through JNCH Customs, Nhava Sheva port; they had imported insulating fittings falling under Customs Tariff Heading (CTH) 8547 by filing Bill of Entry (B/E) No.9449124 dated 28.12.2018 and B/E No.9454113 dated 29.12.2018 and paid applicable

duties of customs relating to aforesaid two B/Es, before clearance of the goods from Customs control. In respect of both the imports the total duty of Rs.5,35,010/- was paid on 29.12.2018; however, inadvertently the appellants had paid the duty on the same imports again on 31.12.2018. On realising the error of making double payment for same imports, they had filed a refund claim on 14.01.2020 in Centralized Refund Cell-I for claiming refund of duty paid for second time for an amount of Rs. Rs.5,35,010/-. The adjudicating authority after verification of the double payment of the customs duty with Senior Account Officer/e-PAO, NCH, Delhi and other sections of the Custom House had found that the refund claim has been filed beyond one year and since the appellants had not preferred refund claim within the stipulated time, he rejected the refund claim as time barred under Section 27(1) of the Customs Act, 1962 vide Order-in-Original No.599/20-21/AM(I) dated 22.01.2021. Being aggrieved, the appellants had filed an appeal against the said order of the original authority, which was disposed of by the learned Commissioner of Customs (Appeals) vide impugned order dated 15.06.2022, wherein he upheld the order of the adjudicating authority and rejected the appeal filed by the appellants. Feeling aggrieved with the impugned order, the appellants have preferred this appeal before the Tribunal.

3.1 Learned Advocate appearing for the appellants had submitted that the appellants had paid the customs duty twice, inadvertently. The details of such double payment was provided by him as follows:

(i) payment of custom duty of Rs.5,35,010/- for the first time, on 29.12.2018 vide ICEGATE reference No.IG291218020933755 2817

(ii) payment of custom duty of Rs.5,35,010/- for second time, on 31.12.2018 vide ICEGATE reference No.IG311218021528503791

He further stated that since the customs duty for same goods was paid twice, the department cannot retain or withhold refund of duty, on the ground of insufficiency of documents or on limitation of time/ time bar.

3.2 Learned Advocate further submitted that "import duty" means customs duty leviable on the import of goods under the provisions of the Customs Act, 1962; and therefore he claimed that the appellants cannot be levied with customs duty twice, on the same import transaction, in denial of refund of such amount paid for the second time under the mistaken impression of duty. Further, he submitted that as per Public Notice No.62/2012 dated

19.11.2012 issued by JNCH Customs authorities, double payment of amount of customs duty is only a deposit with the government. Therefore, he claimed that the limitation of time limit which is applicable only for refund of duty, shall not be applicable to their case.

3.3 In support of their case, the Learned Counsel had relied upon the judgements in the following cases:

(i*) Swastik Sanitary wares Ltd. Vs Union of India* - Gujarat High Court Special Civil Application No.4676-of-2004 dated 29-08-2012 – [2013 (296) E.L.T. 321 (Guj.)]

(ii) *Patel Engg. Ltd. Vs. Commissioner of GST & Central Excise, Mumbai West* – [2025 (3) TMI 1322 CESTAT Mumbai]

(iii) *Varian Medical Systems International (India) P Ltd., Vs. Commissioner of Customs, Nhava Sheva-V Commissionerate* - [2025 (2) TMI 692 CESTAT Mumbai]

4. Learned Authorized Representative (AR) appearing for Revenue, reiterated the findings made by the Commissioner (Appeals) in the impugned order and submitted that in the absence of following the time limits within which the importer is required to file the refund application, allowing refund to the importer filed beyond such time limit under Section 27 ibid, is not permissible. Accordingly, he submitted that impugned order is sustainable and prayed for rejection of the appeal filed by the appellant.

5. Heard both sides and perused the case records. The additional submission made in the form written paper book in this case was also perused carefully.

6. The short issue for determination before the Tribunal is whether the amount of Rs. 5,35,010/- paid by the appellants towards import duty liability for the imports under two specific Bills of Entry No.9454115 and No.9449124, twice on 29.12.2018 and again on 31.12.2018, is eligible for refund or not?

7. Section 12 of the Customs Act, 1962 governs matters of levy of customs duty and Section 27 *ibid* relates to refund of duty. In order to appreciate the issues under dispute, the specific legal provisions of such Sections are extracted given below for ease of reference:

LEVY OF, AND EXEMPTION FROM, CUSTOMS DUTIES

"Dutiable goods.

Section 12. *(1) Except as otherwise provided in this Act, or any other law for the time being in force, duties of customs shall be levied at such rates as may be specified under the Customs Tariff Act, 1975 (51 of 1975) or any other law for the time being in force, on goods imported into, or exported from, India.*

(2) The provisions of sub-section (1) shall apply in respect of all goods belonging to Government as they apply in respect of goods not belonging to Government.

Claim for refund of duty.

Section 27. *(1) Any person claiming refund of any duty or interest—*

(a) paid by him; or

(b) borne by him,

may make an application in such form and manner as may be prescribed for such refund to the Assistant Commissioner of Customs or Deputy Commissioner of Customs, before the expiry of one year, from the date of payment of such duty or interest :……"

Plain reading of the above legal provisions, make the position very clear that the scope of Section 27 *ibid*, deals with refund of duty and duty refers to the customs duty leviable as per the provisions of the Section 12 *ibid*. If such customs duty on import of goods provided is determined on the basis of Bill of Entry and ascertained as "X" and when the same has been paid firstly as per law, and secondly by mistake inadvertently, it is obvious that the amount paid in the context of customs duty for the second time has no legal basis, either for levy or for payment as duty, inasmuch as there is no taxable event for which the levy and payment duty would apply.

8.1 Further, I find that the original authority while adjudicating the case had made the following findings in the order-in-original dated 02.01.2021 to arrive at a conclusion whether the claim for refund of duty, paid twice, is refundable or otherwise. The extract of the same are as below:

"I have gone through the records of the case and the submissions made by the importer and I conclude that:

xxx xxx xxx xxx

9. Sr. Accounts Officer/e-PAO, NCH, Delhi vide letter F. No. e-PAO/ CUS/DP/2019-20/3121/2996 dated 31.03.2020 stated that the payment of Customs duty made through e-mode by M/s Yazaki India Private Limited is confirmed as per the following details and remark.

Name of the Bank	*Date of Scroll*	*B/E No.*	*Challan No.*	*Amount in Rs.*	*Remark*
SBI	29.12.2018	9454113	2025410165	5,02,131/-	Single payment
SBI	31.12.2018	9454113	2025410165	5,02,131/-	Single payment
SBI	29.12.2018	9449124	2025406034	32,879/-	Single payment
SBI	31.12.2018	9449124	2025406034	32,879/-	Single payment

10. In respect of confirmation of double payment of duty from concerned bank, attention is invited to para (4) of Public Notice No. 105/2020 dated 25.08.2020 wherein it has been directed that if any verification/confirmation report from bank is not received within 15 days from the date of the custom-made to bank in this record, the refund may be processed on the basis of verification reports as provided under clause 2(a) to 2(c) of the said PN and considering other facts and evidence is available on record. In the instant case, the email dated 25.07.2020 was sent to the Branch Manager of State Bank of India, New Delhi (Code: 08087), however, no reply has been received till date.

xxx xxx xxx xxx

13. Limitation: I find that the importer M/s Yazaki India Private Limited paid the duty twice i.e., on 29.12.2018 and on 31.12.2018 and the importer has filed the refund claim in CRC section on 14.01.2020 which was filed beyond one year as per Section 27 of Customs Act, 1962……..

From their submission, I find that they submitted the refund claim in CRC Section on14.01.2020. Thus, the refund claim is not filed within the stipulated time limit as prescribed under Section 27(1) of the Customs Act, 1962.

Accordingly, in view of the above I find that the refund claimed by the importer is ***time barred in terms of time prescribed under Section 27 (1) of the Customs Act, 1962.***

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15. In view of the above discussion and findings, I pass the following order: -

ORDER

i) I hereby reject the refund claim of Rs. 5,35,010/- (Rs. Five Lakhs Thirty Five Thousand and Ten only) in respect of Bills of Entry No.9454113 dated 29.12.2018 and B/E No.9449124 dated 28.12.2018 on account of double duty payment being time barred in terms of Section 27 of the Customs Act, 1962 to M/s Yazaki India Private Limited……, Pune 412207."

8.2 Further, learned Commissioner of Customs (Appeals) in the impugned order, had upheld the order of the original authority and rejected the appeal filed by the appellants, on the ground that the refund claim was filed by the appellants after one year and is clearly barred by limitation.

8.3 I find from the above, that all the relevant issues relating to grant of refund has been examined by the authorities below, to ascertain the fact whether the import duty has been twice on the very same consignment of imported goods. However, I find that the original authority had not taken into consideration the letter dated 25.02.2019 issued by SBI, Pune 25.02.2019. Further, on the basis of verification done by him with the Sr. Accounts Officer/e-PAO, NCH, Delhi and other sections of the Custom House, he came to the conclusion that the appellants had paid the customs duty twice, but since they filed the refund claim beyond the time limit of one year, he had rejected the refund claim as time barred under Section 27(1) ibid.

8.4 Further, on careful perusal of the records of the case, it is amply clear that in respect of imports vide B/E No. 9449124 dated 28.12.2018 and B/E No.9454113 dated 29.12.2018, applicable customs duty had been paid twice i.e., firstly on 29.12.2018 vide ICEGATE reference No.IG291218020933755 2817 for Rs.5,35,010/- and again on 31.12.2018 for Rs.5,35,010/- vide ICEGATE reference No.IG311218021528503791. The documents such as Bill of Entry for which the import duty has been assessed under the Customs statute and the challans/ICEGATE acknowledgements in which the customs duty have been paid twice for the same amount and for the very same Bills of Entry are sufficient evidence that the customs duty has been paid twice for two B/Es. Further, the chartered accountant certificate dated 08.05.2019 produced by the importer-appellants also demonstrates that the burden of duty have been borne by them on being had to pay the customs duty twice, and they had not passed on such burden to any other person. On the above basis, a clear case has been made out by the appellants and the authorities below had verified the facts but denied refund on the sole ground of limitation of time. Therefore, I am of the considered view that the impugned order is contrary to the factual position of the case as discussed herein and on this ground alone it is liable to be set aside.

9. The issue of refund arising on account of payment of duty/tax twice has been dealt with in detail by the by the Hon'ble High Court of Gujarat in the case of *Swastik Sanitary wares Limited* (supra), upon taking into account the judgement of the Hon'ble Supreme Court in *Mafatlal Industries Ltd. Vs. Union of India - 1997 (89) E.L.T. 247 (S.C.)* and it was held the assessee is eligible for refund of the amount paid for the second time. The relevant paragraphs of the said judgement delivered on 29.08.2012 is extracted and given below:

> ***"14.*** *If, for any reason, the petitioners were seeking refund of a duty paid, such claim had to be examined under Section 11B of the Act and in such a case, the period of limitation would apply in all its rigour. Neither the departmental authority nor this court in a writ jurisdiction ignore such statutory period of limitation. This position is abundantly clear flowing from the decision in the case of Mafatlal Industries (supra) wherein in the concluding portion of the majority judgment it was held and observed as under :-*
>
> > *108. The discussion in the judgment yields the following propositions. We may forewarn that these propositions are set out merely for the sake of convenient reference and are not supposed to be exhaustive. In case of any doubt or ambiguity in these propositions, reference must be had to the discussion and propositions in the body of the judgment.*

(i) Where a refund of tax/duty is claimed on the ground that it has been collected from the petitioner/plaintiff - whether before the commencement of the Central Excises and Customs Laws (Amendment) Act, 1991 or thereafter - by misinterpreting or misapplying the provisions of the Central Excises and Salt Act, 1944 read with Central Excise Tariff Act, 1985 or Customs Act, 1962 read with Customs Tariff Act or by misinterpreting or misapplying any of the rules, regulations or notifications issued under the said enactments, such a claim has necessarily to be preferred under and in accordance with the provisions of the respective enactments before the authorities specified there under and within the period of limitation prescribed therein. No suit is maintainable in that behalf. While the jurisdiction of the High Courts under Article 226 - and of this Court under Article 32 - cannot be circumscribed by the provisions of the said enactments, they will certainly have due regard to the legislative intent evidenced by the provisions of the said Acts and would exercise their jurisdiction consistent with the provisions of the Act. The writ petition will be considered and disposed of in the light of and in accordance with the provisions of Section 11-B. This is for the reason that the power under Article 226 has to be exercised to effectuate the rule of law and not for abrogating it.

15. *In the present case, however, we find that the second deposit of the same amount on clearance of the same goods did not amount to deposit of excise duty and was a pure mistaken deposit of an amount with the Government which the revenue cannot retain or withhold. Such claim, therefore, would not fall within Section 11B of the Act. It is true that insofar as the Act is concerned, for refund of duty, the provision is contained in Section 11B. However, merely because there is no specific statutory provision pertaining to return of amount deposited under a mistake, per se, in our opinion, should not deter us from directing the respondents to return such amount. Admittedly, there is no prohibition under the Act from returning such an amount. Allowing the respondents to retain such amount would be, in our opinion, highly inequitable. We may not be seen to suggest that such a claim can be raised at any point of time without any explanation. In a given case, if the petitioner is found to be sleeping over his right, or raises such a claim after unduly long period of time, it may be open for the Government to refuse to return the same and this court in exercise of discretionary writ jurisdiction, may also not compel the Government to do so.*

16. *In the present case, however, no such inordinate delay is pointed out. The petitioners have contended that the error was noticed by them some time in October, 2003 whereupon immediately on 1-11-2003, such refund claim was filed.*

17. *In a recent judgment in case of C.C. Patel & Associates Pvt. Ltd. (supra), this court had occasion to deal with somewhat similar situation where the petitioner had deposited service tax twice which was not being refunded by the Department. In that context, it was observed as under :-*

(12) We fail to see how the department can withhold such refund. We say so for several reasons. Firstly, we notice that under sub-section (3) of section 68, the time available to a service provider such as the petitioner for depositing with the Government service tax though not collected from the service recipient was 75 days from the end of the month when such service was provided. This is in contrast to the duty to be deposited by a service provider upon actual collection by the 15th of the month following the end of the month when such duty is collected. Sub-section (3) of section 68 thus

provided for an outer limit of 75 days, but never provided that the same cannot be paid by the 15th of the month following the end of the month when such service was provided. Thus, if the petitioner deposited such duty with the Government during a particular quarter on the basis of billing without actual collection, he had discharged his liability under sub-section (3) of section 68. Thereafter, on an artificial basis, the Assessing Officer could not have held that he ought to have deposited same amount once all over again in the following quarter. This is fundamentally flawed logic on the part of the Assessing Officer.

(13) Further, to accept such formula adopted by the Assessing Officer would amount to collecting the tax from the petitioner twice. The petitioner having already paid up the service tax even before collection in a particular quarter, cannot be asked to pay such tax all over again in the following quarter on the same service on the ground that such tax had to be deposited in the later quarter but was deposited earlier. Any such action would be without authority of law. Further, before raising demand of Rs. 1,19,465/- under the head of duty short paid, the Assessing Officer should have granted adjustment of the duty already paid by the petitioner towards the same liability.

(14) Under the circumstances, we are of the opinion that the department cannot withhold such amount which the petitioner rightfully claimed. Under the circumstances, question of applying limitation under section 11B of the Act would not arise since we hold that retention of such service tax would be without any authority of law.

18. *Before closing, we may record that with some of the observations made by this court in the case of Indo-Nippon Chemicals Co. Ltd. (supra), with respect, we have serious doubts. However, since such questions do not directly arise in this petition, we refrain from making any further observations in this regard.*

19. *Under the circumstances, the amount of Rs. 91,128/- is payable to the petitioners by the respondents. However, since the petitioners filed such a claim only on 1-11-2003, they cannot claim interest on any period prior thereto.*

20. *It is, therefore, directed that the respondents shall pay to the petitioners a sum of Rs. 91,128/- with simple interest at the rate of 9% per annum after a period of three months from the date of the application dated 1-11-2003 till actual payment. The petition is disposed of accordingly. Rule made absolute."*

10. I also find that the Central Board of Indirect Taxes & Customs (CBIC) in the Ministry of Finance had declared in its 'Citizen Charter' that its Mission is to provide 'a robust indirect tax and border control administration, with a view towards delivery of services, which is (i) Simple and predictable (ii) Fair and just (iii) Transparent (iv) Technology-driven; and which *inter alia*, protects honest taxpayers' rights, promotes Ease of doing Business'. Furthermore, the JNCH customs authorities in their Public Notice No.62/2012 dated 19.11.2012 have also state that double/multi payment of amount post acceptance of the amount of customs duty in the Customs EDI system is

only a deposit with the government. I also find that the same principle is also carried forward in implementing the facility of Electronic Cash Ledger (ECL) functionality as envisaged in Section 51A of the Customs Act, 1962, vide Circular No. 09/2023-Customs dated 30.03.2023 issued, *inter alia*, for reducing instances of double duty payment as rejected payment will stay at the ECL for re-initiating payment of duties. In the above background, I do not find that the orders passed by the authorities below being in compliance with the policy and procedure prescribed by CBIC and JNCH Customs House. Therefore, on these grounds also the impugned order is liable to be set aside.

12. In view of the foregoing discussions and on the basis of the judgements of the higher judicial forum delivered on the disputed issue, I hold that the impugned order is liable to be set aside, as it had denied refund of an amount of Rs.5,35,010/- to the appellants, which has been paid twice towards one single import activity in two B/Es on which customs duty applicable has already been paid at the first time, as per law.

13. In the result, the impugned order dated 15.06.2022 is set aside. I allow refund of an amount of Rs.5,35,010/- to the appellants, by allowing the appeal in favour of the appellants.

(Order pronounced in open court on 22.08.2025)

(M.M. Parthiban)
Member (Technical)

Sinha