



## ***Aadrikaa Law Offices (ALO)- IDT Tax I Arbitration I Litigation***

**Date: 26.09.2025**

### **CESTAT Chennai Upholds Interest on Delayed SAD Refunds**



*This Article has been written by Shri Ravi Shekhar Jha, Advocate based in New Delhi. The views expressed are based on his interpretation of the law. He can be reached at his email id [intelconsul@gmail.com](mailto:intelconsul@gmail.com) or on his Mobile +91-9999005379.*

In a significant ruling, the Customs, Excise & Service Tax Appellate Tribunal (CESTAT), Chennai, has dismissed the appeal filed by the Commissioner of Customs, Chennai Commissionerate-IV, against M/s HLG Trading. This decision reinforces the entitlement of importers to interest on delayed refunds under Section 27A of the Customs Act, 1962, even in cases governed by exemption notifications like Notification No. 102/2007-Cus.

#### **Background of the Case**

The dispute arose when M/s HLG Trading sought refunds of additional duty of customs under Section 3(5) of the Customs Tariff Act, 1975, along with interest for the delay in processing the refunds. While the refund amounts were sanctioned by the Assistant Commissioner (Refunds), the claim for interest was rejected, citing that the refund scheme under Notification No. 102/2007-Cus was not governed by Section 27 or Section 27A of the Customs Act, 1962.

Aggrieved by this rejection, M/s HLG Trading approached the Commissioner (Appeals), who ruled in their favor, directing the lower adjudicating authority to calculate and sanction interest. The Department, dissatisfied with this decision, escalated the matter to CESTAT Chennai.

## Key Arguments

The Department argued that the refund scheme under Notification No. 102/2007-Cus operates as an exemption and is not subject to the provisions of Section 27A of the Customs Act, 1962. They also contended that the matter was sub judice, as a writ appeal against a similar judgment by the Madras High Court in KSJ Metal Impex Pvt. Ltd. was pending.

On the other hand, M/s HLG Trading relied on the Madras High Court's decision in their own case, which had unequivocally upheld their entitlement to interest under Section 27A of the Customs Act, 1962.

## CESTAT's Observations and Ruling

The Tribunal rejected the Department's plea to keep the matter in abeyance due to pending appeals in higher courts. It emphasized that appellate machinery cannot be paralyzed merely because a superior court is seized of a similar matter. The Tribunal also noted that the Department had not obtained a stay against the Madras High Court's ruling in M/s HLG Trading's case.

On merits, CESTAT Chennai upheld the Madras High Court's decision, which had clearly established that importers are entitled to interest on delayed refunds under Section 27A of the Customs Act, 1962. The Tribunal dismissed the Department's appeal, terming it devoid of merit, and directed consequential reliefs to M/s HLG Trading.

## Implications of the Decision

This ruling is a landmark for importers seeking refunds under exemption notifications. It clarifies that interest on delayed refunds is payable under Section 27A of the Customs Act, 1962, irrespective of the nature of the refund scheme. The decision also underscores the importance of judicial discipline, as appellate authorities are bound to follow precedents set by higher courts unless stayed.

## Conclusion

The CESTAT Chennai's decision in favor of M/s HLG Trading is a victory for importers and a reaffirmation of their rights under the Customs Act. It sets a precedent for similar cases and ensures that procedural delays in refund processing do not unfairly burden importers. This ruling is a step forward in promoting transparency and accountability in customs administration.

**Source: CESTAT Chennai**

**Disclaimer**

Write to us at [office@aadrikaalaw.com](mailto:office@aadrikaalaw.com)

Tel: +91-11-4999 2707 | +91-9999005379

[www.aadrikaalaw.com](http://www.aadrikaalaw.com)

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL CHENNAI**

REGIONAL BENCH - COURT No. I

**Customs Appeal No. 42401 of 2015**

(Arising out of Order-in-Appeal No. C. Cus. II No. 634 of 2015, dated 30.06.2015 passed by Commissioner of Customs (Appeals-II), Chennai)

**Commissioner of Customs,**  
Chennai Commissionerate – IV  
Custom House, Chennai – 600 001.

**.... Appellant**

*VERSUS*

**M/s HLG Trading,**  
HAA-64-Phase-IV,  
Focal Point, Ludhiyana – 141 010.

**..... Respondent**

**APPEARANCE**

Ms. O.M. Reena, Authorised Representative for the Appellant  
Shri. S. Murugappan, Advocate for the Respondent

**CORAM :**

**HON'BLE MR. M. AJIT KUMAR, MEMBER (TECHNICAL)**  
**HON'BLE MR. AJAYAN T.V, MEMBER (JUDICIAL)**

**FINAL ORDER No.41043/2025**

DATE OF HEARING: 01.07.2025  
DATE OF DECISION: 25.09.2025

**Per Ajayan T.V.**

This appeal has been filed by the revenue, aggrieved by the impugned order in appeal, C. Cus II No. 634/2015, dated 30.06.2015, where by the appellate authority has set aside the Order in Original No. 35821/2015, dated 13.03.2015, and has directed the lower adjudicating authority to calculate the amount of interest at the applicable rate and to sanction the same to the Respondent.

2. The relevant facts are that the respondent had filed claims for refund of the additional duty of customs under Section 3 (5) of the Customs Tariff Act 1975 along with interest. The refund amounts of Rs 7,20,752 and Rs.15,50,218/- were sanctioned by the Asst. Commissioner (Refunds) vide Orders in Original No.26517 and 26589 both dated 18.06.2014, respectively but were silent about the claim of interest. Aggrieved, the respondent filed appeals before the Commissioner (Appeals) claiming interest for the delay in the sanction of refund. The appellate authority,

vide Order in Appeal C. Cus No. 1825 to 1831/2014 dated 26.09.2014 remanded the issue back to the sanctioning authority to pass a well-reasoned speaking order regarding sanction/rejection of claim of interest for delayed refunds.

3. The adjudicating authority thereafter vide Order in Original No. 35821/2015 dated 13-03-2015 rejected the claim for interest. The adjudicating authority, vide the above-mentioned order, rejected the claim for interest on the grounds that the scheme of refund of 4% AD has been notified through the exemption notification no. 102/2007-Cus. Dated 14.09.2007 and hence the conditions as prescribed in the said notification as amended will apply. It was held that in the absence of specific provision for payment of interest, the scheme, which is essentially an exemption notification that operates by way of refund of duty paid at the time of import of goods, are governed by the provisions of the notification only and the provisions under Section 27 and Section 27A of the Customs Act, 1962 would not apply to the case and therefore payment of interest does not arise. The Adjudicating Authority also has stated that a Writ appeal has been filed by the department against the judgment of the Hon'ble High Court of Madras, passed in the case of KSJ Metal Impex (P) Ltd., Vs. Under Secretary (Cus.), M.R. (D.R) reported in 2013 (294) E.LT.211 (Mad.)
4. Aggrieved by the said order of the Adjudicating Authority rejecting the claim for interest, the respondent filed appeal before Commissioner (Appeals) and the Learned Appellate Authority vide the impugned Order in Appeal, set aside the Order in Original No. 35821/2015, dated 13.03.2015, and directed the lower adjudicating authority to calculate the amount of interest at the applicable rate and to sanction the same to the respondent. The Ld. Appellate Authority found that since it was not shown that the Department has obtained stay against the order of the Hon'ble High Court in the case of M/s KSJ Metal Impex P. Ltd., Chennai, department is bound to follow the order of the Hon'ble High Court. Aggrieved by the impugned Order in Appeal, the Department has preferred this Appeal and the parties are now before this Tribunal.

5. Ms. OM Reena, learned authorized representative appearing for the appellant contended that order passed by Commissioner (Appeals) is not legal and proper and submitted as under.

(i) Circular No. 6/2008- Customs dated 28.04.2008 was issued prescribing the procedure that may be adopted by the field formations in order to settle the refund claims arising out of the exemption provided vide Notification No. 102/2007-Customs, dated 14th September, 2007, expeditiously

(ii) The payment of special additional duty and refund consequent to exemption granted under Section 25(1) of the Customs Act 1962 is a special exemption granted to the importers under the said notification and, therefore the refund is automatic by virtue of Notification No. 102/2007 - Customs, dated 14.09.2007 and it is not a refund under Section 27 of the Customs Act, 1962 so as to claim interest under Section 27 A of the Customs Act, 1962.

(iii) Goods imported Into India attracts Basic Customs Duty, besides it is also chargeable to Additional Customs Duty at the rate of 4% However, goods when: Imported into India for subsequent sale are exempted from this Additional Duty vide Notification No. 102/2007-Customs, dated 14 September, 2007 as per the conditions stipulated therein.

(iv) It is clearly stated in the circular dated 28.04.2008 issued by the Board, that the refunds given under this exemption notification are not governed by the Section 27 of the Customs Act, 1962. Thus, it could be appreciated that this is essentially an exemption but operates by way of refund of duty paid at the time of import of goods and such refunds are governed by the provisions of the notification as described above. Hence the provisions under Section 27 and Section 27A of the Customs Act would not apply to the cases relating to the exemption notifications referred to above.

(v) The decision of the Honourable High Court in KSJ Metal Impex Private Limited allowing a batch of writ petitions and quashing the relevant para of circular number 6/ 2008 has been appealed against in the writ appeal referred by the department, and has not attained finality.

6. Shri. S Murugappan, learned counsel, appeared for the Respondent and submitted that the issue stands decided in favour of the Respondent in the Respondent's own case reported as ***M/s. HLG Trading, through its proprietor Gagan Goyal Vs. The Principal Commissioner of Customs, The Deputy Commissioner of Customs (Refunds-II), Chennai, reported in 2025(6) TMI 1608 – Madras High Court*** and hence the issue stands settled in the Respondent's favour.
7. Heard both sides, perused the appeal records and the case law submitted as relied upon.
8. At the outset, the plea taken by the Revenue that since the Department has preferred a Writ Appeal against the order of the Jurisdictional High Court, the matter has not attained finality, is addressed. This Tribunal had recently on an occasion to consider a similar plea, wherein the matter was requested to be kept in abeyance pending the decision of an appeal preferred in the case of another assessee which was admitted and pending decision in the Apex Court. This Tribunal, vide ***Final Order No.41031-41032/2025 dated 22.09.2025, in the case of Twenty First Century Pharmaceuticals P. Ltd v. Commissioner of Customs, Chennai***, speaking through one of us [ Shri. M. Ajit Kumar, Member (Technical)] at para 15, has held as under:

“15. Hence, as per the law laid down by Constitutional Courts it is not open for us to refuse to follow a judgment or refuse to take up an appeal for decision by stating that it has been put in jeopardy due to an appeal before a higher forum. To keep an appeal pending just because a superior appellate court is seized of the matter would paralyse the entire appellate machinery and would not be in public interest. We are hence at liberty to decide the matter.”

Therefore, no doubt the matter may not have attained finality, but that did not shackle the Ld. Appellate Authority, from proceeding to decide the matter based on the ratio laid down therein, in the absence of any stay. The said plea of the Revenue is thus noted, only to be rejected.
9. On merits, we find that the issue need not detain us any further and as rightly stated by the Ld. Counsel for the Respondent, the lis inter-se the Respondent and Revenue on this matter, stands settled vide the decision in the Respondent's own case reported as ***M/s. HLG Trading,***

**through its proprietor Gagan Goyal Vs. The Principal Commissioner of Customs, The Deputy Commissioner of Customs (Refunds-II), Chennai, reported in 2025(6) TMI 1608 – Madras High Court**, the relevant and concluding portions of which are as under:

"29. Taking note of the **Final Order Nos.40889 to 40898** of 2017 dated **02.06.2017** in "**M/s.Kubota Agricultural Machinery India Pvt.Ltd., Vs. Commissioner of Customs, Chennai-IV**", the submissions of the learned counsel for the Petitioners and the learned Senior Standing Counsel for the Respondents, this Court vide its order dated 24.01.2020 in W.P.No.37472 of 2016 had ordered as under:-

*"The petitioner has challenged the impugned order passed by the office of The Commissioner of Customs (Appeals-II) vide order dated 20.07.2016 bearing reference No. Order in Appeal C.Cus II No.729 to 733/2016 dated 20.07.2016.*

2. *Heard the arguments of the learned counsel for the petitioner and the learned counsel appearing for the respondent.*

3. *By the impugned order, the first respondent- Commissioner of Customs (Appeal) has confirmed the order of the second respondent claiming refund of SAD (Special Additional Duty) in terms of Notification No.102/2007-Cus dated 14.09.2007. Both the counsel fairly submits that the Department has accepted the availability of SAD refund and to that effect, orders have been passed by this Court in W.P.Nos.3700, 2431 to 2433 of 2017 etc., dated 23.09.2019. The operative portion of the order which reads as follows:*

*"Common Order"*

*"The petitioners in this batch of writ challenge notices/order-in-original/ appellate orders proposing to reject/rejecting the request for refund of special additional duty.*

2. *Mr.A.P.Srinivas, learned Central Government Standing Counsel for the respondents fairly points out that the issue of refund of special additional duty was considered by the Customs, Central Excise and Service Tax Appellate Tribunal vide order dated 02.06.2017 and the issues decided in favour of the importer. This order has been accepted by the Department.*

3. *These writ petitions are thus liable to be allowed and I do so. The petitioners may seek refund of the special additional duty paid by way of an applications to be filled within a period of two (2) weeks from today.*

*Upon receipt thereof, necessary orders for refund shall be passed by the respondent. Connected Miscellaneous Petitions are closed. No costs."*

4. *Since the issue is covered by the aforesaid order passed by the learned Single Judge of this Court, dated 23.09.2019 in W.P.Nos.3700, 2431 to 2433 of 2017 etc., the present writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are also closed."*

30. Since under similar circumstances, the Petitioners' own case ought to be allowed, I see no impediment in following the orders passed in the case of the Petitioners themselves in the writ petitions (*cited supra*).

31. Therefore, these Writ Petitions deserves to be allowed. The further claim of the Petitioners is that the Petitioners are entitled to interest payable under Section 27A of the Customs Act, 1962.

32. Therefore, the Petitioners are entitled to interest under Section 27A of the Customs Act, 1962 from the date of the expiry of three months from the date of filing of the refund application.

33. In the result, all the Writ Petitions are allowed as prayed for.

34. The Respondents are directed forthwith to process the refund claim together with interest under Section 27A of the Customs Act, 1962.

35. Before passing further orders in the refund claim, the Petitioners shall be heard.

36. The amount shall be paid within a period of 3 months from the date of receipt of a copy of this order. No costs."

10. Revenue has not shown that the aforesaid order of the Honourable High Court in the respondent's own case has been stayed. In adherence to judicial discipline and respectfully following the same, we hold that the Department Appeal is untenable and is liable to be set aside. Ordered accordingly.

The Appeal, being devoid of merits, is dismissed. The Respondent is entitled to consequential reliefs in law.

(Order pronounced in open court on 25.09.2025)

**(AJAYAN T.V.)  
MEMBER (JUDICIAL)**

**(M. AJIT KUMAR)  
MEMBER (TECHNICAL)**