

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI**

PRINCIPAL BENCH - COURT NO. 1

Customs Appeal No. 50742 of 2020

(Arising out of Order-in-Appeal No. CC(A)Cus/D-I/Import/NCH/339-342/2019 dated 26.09.2019 passed by the Commissioner of Customs (Appeals), New Delhi)

Micromax Informatics Limited

...Appellant

Plot No. 21/14, Block 'A'
Naraina Industrial Area
Phase II, New Delhi- 110028

VERSUS

Commissioner, Customs (Import)-New Delhi ...Respondent

New Customs House,
Near I.G.I. Airport
New Delhi- 110037

WITH

C/50743/2020

C/50744/2020

C/50745/2020

APPEARANCE:

Shr Nikhil Goyal and Shri Udit Bajpai, Advocates for the Appellant
Shri Nikhil Mohan Goyal, Authorized Representative of the Department

CORAM :

**HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT
HON'BLE MR. S. V. SINGH, MEMBER (TECHNICAL)**

Date of Hearing/Decision: 27.10.2025

FINAL ORDER NO's. 51643-51646/2025

JUSTICE DILIP GUPTA

All these four appeals that have been filed by M/s Micromax Informatics Limited¹ seek to assail the order dated 26.09.2019 passed by the Commissioner of Customs (Appeals)² that adjudicates the four appeals filed by the Deputy Commissioner of Customs against the four orders dated 23.01.2017 passed by the Assistant Commissioner. The Assistant Commissioner, by these four separate orders, sanctioned refund of the principal amount with interest but directed it to be credited to the Consumer Welfare Fund. The department filed four

1 the appellant

2 the Commissioner (Appeals)

appeals before the Commissioner (Appeals) only against that part of the order that sanctioned payment of interest. The Commissioner (Appeals) set aside the four orders passed by the Assistant Commissioner in as far as they sanctioned payment of interest.

2. It transpires from the records that the appellant imported 'mobile handsets' during the period 2014-2015 and paid countervailing duty at a higher rate without claiming exemption in terms of a Notification. However, in view of the order of the Supreme Court in **M/s SRF Ltd versus Commissioner of Customs, Chennai³**, the appellant filed five applications claiming refund of the excess amount of duty paid. The details of these applications are as follows:

Sl. No	Date of refund application	Period involved	Amount of refund	Order-in-original
1	14.08.2015	September 2014	22,48,35,292/-	2846/DS/2016 dated 23.01.2017
2	17.09.2015	October 2014	33,91,47,955/-	2845/DS/2016 dated 23.01.2017
3	17.09.2015	November 2014 to January 2015	68,11,45,947/-	2844/VKJ/2016 dated 23.01.2017
4	27.10.2015	February 2015 and March 2015	50,15,32,437/-	2847/RK/2016 dated 23.01.2017
5	30.06.2015	June 2014 to March 2015	28,48,22,600/-	234/2016 dated 23.01.2017

3. The refund applications from Serial No's. 1 to 4 were decided by orders dated 23.01.2017. The refund application at Serial No. 5 was also decided by order dated 23.01.2017. As noticed above, the department filed four appeals before the Commissioner (Appeals) against that part of the orders passed by the Assistant Commissioner that sanctioned payment of interest. The appellant was also aggrieved by the orders dated 23.01.2017 as while sanctioning the amount with

interest, the Assistant Commissioner directed it to be credited in the Consumer Welfare Fund.

4. Accordingly, the appellant filed Writ Petition before the Delhi High Court. During the pendency of the Writ Petition, the appellant filed five appeals before Commissioner (Appeals). The Commissioner (Appeals) decided the five appeals by order dated 09.03.2022 holding that the principal amount should be paid to the appellant instead of it being credited in the Consumer Welfare Fund. The Commissioner (Appeals) also decided the appeal filed by the department against the order passed by the Assistant Commissioner on 23.01.2017 in respect of the fifth refund application dated 30.06.2015.

5. The relevant portion of the order passed by the Commissioner (Appeals) relating to the five appeals filed by the appellant is reproduced below:

"5.16 Thus the appeals of the Appellant Importer are allowed to the extent that refund claim amount should be paid to the Appellant Importer instead of crediting it to the Consumer Welfare Fund."

6. In respect of the appeal filed by the department, the Commissioner (Appeals) passed the following order:

"5.17 In respect of appeal of the Department against order no. 234/2016 dated 23.01.2017, I note that insofar issue of crediting interest for delayed payment of interest to the Consumer Welfare Fund is concerned, the matter stands decided in favor of the Department by my predecessor in respect of appeals of the Departments against under nos. 2844-2847 of 2016 all dated 23.1.2017. Orders-in-Appeal Nos. CC(A)/CUS/D-I/IMPORT/NCH/339-342/2019 dated 30.9.2019 is referred to in this regard. Thus the impugned Order No. 234/2016 is modified to the extent

that order of crediting interest to the Consumer Welfare Fund is set aside.

5.18 The Appellant Department has taken additional ground that refund claim was not admissible as the assessment in impugned bills of entry cannot be opened unless an order is passed by any appellate authority and the claimant has not taken recourse to correct provisions of the Customs Act, 1962. Reliance has been placed on ruling of the Hon'ble Supreme Court in case of ITC Ltd.

5.18 In this connection, I note that Appellant Importer had applied for reassessment and amendment of impugned bills of entry to the proper officer. The said request was rejected vide letter dated 09.12.2021. The Appellant Importer had filed an appeal against the same. The said appeal has been decided vide Order-In-Appeal No.CC(A)/CUS/D-I/IMPORT/NCH/4175/2021-22 dated 25.02.2022 and the amendments in impugned bills of entry and consequential re-assessment has been allowed. Thus the said contention of the Department has no force now.

5.20 Insofar as issue of sanction of interest for delayed payment of refund claim is concerned, since the refund is now being ordered to be paid to the Appellant Importer, interest for delayed payment of claim, if any payable as per law, shall be paid to the Appellant. This will apply to Order No. 234/2016. In respect of rest of four orders, since my predecessor has already set aside the order of sanction of interest and crediting of the same to the Consumer Welfare Fund, it is not open for me to adjudicate on the same issue. The Appellant Importer may further take up the issue at appropriate forum as per law."

(emphasis supplied)

7. This order dated 09.03.2022 passed by the Commissioner (Appeals) to the extent it relates to the four appeals concerning refund application from Serial No's. 1 to 4 was assailed by the department

before this Tribunal in four appeals. These appeals were dismissed by the Tribunal by order dated 26.09.2023 and the relevant portion of the decision is reproduced below:

"11. With these observations, we do **not** (sic) find any infirmity in the order of Commissioner (Appeals). The refund claims were sanctioned by the original adjudicating authority itself. Those were diverted to the Consumer Welfare Fund solely on the presumptive ground of unjust enrichment. The order under challenge has reasonably well explained that the assessee has not at all been enriched unreasonably as no burden of enhanced CVD paid was found to have been passed on to the buyers of imported goods. We do not find anything to differ from those findings. Consequent thereto, the order under challenge is hereby upheld. Resultantly, all the appeals by the department stands dismissed. Applications for stay as were filed by department-appellant are also disposed of."

8. As noted above, in respect of one appeal relating to the fifth refund application dated 30.06.2015, the Commissioner (Appeals) sanctioned the interest amount also. In respect of the remaining four applications dated 14.08.2015, 17.09.2015, 17.09.2015 and 27.10.2015, the Commissioner (Appeals) did not pass any order as the appellant had filed the present four appeals before the Tribunal.

9. It is submitted by Shri Nikhil Goyal, learned counsel for the appellant assisted by Shri Udit Bajpai that once the principal amount was sanctioned by the Tribunal in its decision rendered on 26.09.2023 in Customs Appeal No. 51608 of 2022 connected with four other appeals, the amount of interest should also be credited to the account of the appellant instead of it being credited to the Consumer Welfare Fund. In this connection, the learned counsel for the appellant has also relied upon the order of the Commissioner (Appeals) dated

09.03.2022 sanctioning interest in favour of the appellant in respect of the fifth refund application dated 30.06.2015.

10. Shri Nikhil Mohan Goyal, learned authorised representative appearing for the department has, however, supported the impugned order.

11. The issue that arises for consideration in these four appeals is regarding payment of interest to the appellant on the amount which has been sanctioned to the appellant by this Tribunal by its order dated 26.09.2023.

12. It is seen that interest was denied to the appellant for the reason that the principal amount was directed to be deposited into Consumer Welfare Fund. Now that the Tribunal has decided this issue in favour of the appellant and has held that the principal amount has to be credited to the account of the appellant and not to the Consumer Welfare Fund, it follows that appellant would also become entitled for interest to be credited in the account of the appellant. This is exactly what also held by the Commissioner (Appeals) in the order dated 09.03.2022 in respect of the fifth refund application.

13. In this view of the matter, the impugned order dated 26.09.2019 is set aside and all the four appeals are allowed. The appellant is held entitled to payment of interest in accordance with law in respect of the first four refund applications on the principal amount that has already been sanctioned.

(Dictated and pronounced in the open court)

(JUSTICE DILIP GUPTA)
PRESIDENT

(S.V. SINGH)
MEMBER (TECHNICAL)