

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

REGIONAL BENCH – COURT No. III

Customs Appeal No. 40234 of 2017

(Arising out of Order-in-Appeal C.Cus.I.No. 326/2016 dated 29.09.2016 passed by Commissioner of Customs (Appeals-I), No. 60, Custom House, Rajaji Salai, Chennai – 600 001)

M/s. RBF Rig Corporation LLC

Transocean House,
Lake Boulevard Road,
Hiranandani Business Park,
Powai,
Mumbai – 400 076.

...Appellant

Versus

Commissioner of Customs

Chennai VII Commissionerate,
New Custom House,
Air Cargo Complex,
Meenambakkam,
Chennai – 600 027.

...Respondent

APPEARANCE:

For the Appellant : Mr. Patel J.C., Advocate

For the Respondent : Mr. Anoop Singh, Authorised Representative

CORAM:

HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)

HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)

FINAL ORDER No. 40286 / 2026

DATE OF HEARING : 08.12.2025

DATE OF DECISION : 23.02.2026

Per Mr. VASA SESHAGIRI RAO

The present appeal has been filed by M/s. RBF Rig Corporation LLC (hereinafter referred to as the Appellant) against Order-in-Appeal dated 29.09.2016 passed by the Commissioner of Customs (Appeals), Chennai, rejecting the Appellant's claim for interest under Section 27A of the

Customs Act, 1962 on delayed refund of customs duty. The Appellant, engaged in petroleum drilling operations, imported 28 consignments of equipment and spares during July 2002 to November 2002 for use in petroleum operations under a contract with ONGC, availing Notification No. 21/2002-Cus dated 01.03.2002 (Sl. No. 214), subject to production of Essentiality Certificates (ECs) from the Directorate General of Hydrocarbons (DGH). As the ECs were not initially issued, the goods were cleared on payment of duty under protest and the Appellant approached the Hon'ble Delhi High Court, which by order dated 11.03.2003 directed Customs authorities to consider the refund claims after issuance of the ECs. Upon issuance of ECs during January–March 2003, the Appellant filed refund applications, which were rejected by the Assistant Commissioner in 2005–06 on the ground that assessments were not challenged, and such rejection was upheld by the Commissioner (Appeals) on 24.05.2006.

1.2 On further appeal, this Tribunal by order dated 23.06.2014, following the judgment of the Hon'ble Supreme Court in *RBF Rig Corporation v. Commissioner of Customs – 2011 (264) E.L.T. 486 (S.C.)*, set aside the rejection and remanded the matter for fresh adjudication. Pursuant thereto, the adjudicating authority re-assessed 15 Bills of Entry and sanctioned refund thereof by Order-in-Original

dated 26.11.2015, but denied interest for the period from 2003, giving rise to the present appeal. In respect of the remaining 13 Bills of Entry, refund claims were again rejected as time-barred, which rejection was ultimately set aside by this Tribunal in *RBF Rig Corporation v. Commissioner of Customs – 2018 (359) E.L.T. 219 (Tri.)*. Consequent refunds were granted and interest from 2003 onwards was directed by the Commissioner (Appeals) vide Order-in-Appeal dated 20.03.2018, which has been accepted and implemented by the Department. Thus, while interest on delayed refund has been granted by the Department itself in respect of 13 Bills of Entry arising from the same imports and refund applications, interest has been denied in respect of the remaining 15 Bills of Entry, leading to the present appeal.

2. The Ld. Advocate Mr. J.C. Patel, , appeared on behalf of the Appellant and advanced detailed submissions in support of the Appeal and the Ld. Authorized Representative Mr. Anoop Singh appeared for the Revenue and defended the Impugned Order.

3. The Learned Advocate appearing for the Appellant made the following submissions which are summarized as below: -

3.1 The refund applications were filed during January–March 2003, whereas the refund was sanctioned only on 26.11.2015, after a delay of more than 12 years.

3.2 It was contended that Section 27A of the Customs Act, 1962 mandates payment of interest if refund is not granted within three months from the date of receipt of refund application, irrespective of whether the refund was initially rejected and later allowed in appeal.

3.3 Strong reliance was placed on the judgment of the Hon'ble Supreme Court in *Ranbaxy Laboratories Ltd. v. Union of India - 2011 (273) ELT 3 (SC)*, wherein it was held that the starting point for interest is the expiry of three months from the date of the original refund application, and not the date of appellate order.

3.4 It was argued that the lower authorities erred in holding that refund became "due" only after the Tribunal's order dated 23.06.2014. Such an interpretation, according to the Appellant, is directly contrary to Section 27A and binding judicial precedents.

3.5 The Appellant further submitted that for the remaining 13 Bills of Entry, on identical facts, interest from

2003 onwards was granted pursuant to Order-in-Appeal dated 20.03.2018, which has been accepted by the Department.

3.6 Therefore, denial of interest for the balance 15 Bills of Entry is discriminatory and unsustainable.

3.7 Several judicial decisions have been cited by the Appellant in support of its defence.

4. The Ld. Authorized Representative supported the impugned order and submitted that the refund became payable only after reassessment of Bills of Entry pursuant to the Tribunal's order in 2015.

4.1 It was contended that since the refund applications were originally rejected and reassessment was carried out only in 2015, interest cannot be claimed from 2003.

4.2 The Department also argued that original Bills of Entry and challans were not produced in certain cases and indemnity bonds were submitted later, and therefore the refund applications could be treated as complete only at a later stage.

5. We have heard the Rival submissions of both the sides. We have also perused the appeal records, Orders-in-Original, Order-in-Appeal, this Tribunal order in Appellants own case, written submissions placed on record, the relevant statutory provisions of the Customs Act 1962 as well as the judicial precedents cited by both sides.

6. Upon such consideration, the following issues arise for our determination as to: -

- i. Whether interest under Section 27A of the Customs Act, 1962 is payable from the expiry of three months from the date of original refund applications filed during January–March 2003;
- ii. Whether interest can be denied on the ground that refund was granted only pursuant to appellate orders passed subsequently.

7. Since both the issues framed arise from the same factual matrix and are intrinsically interlinked, we proceed to club and decide them together.

7.1 We have carefully considered the rival submissions advanced by both sides and have perused the appeal records, impugned order, statutory provisions and the judicial precedents relied upon. The material facts are not in

dispute. It is admitted that the Appellant filed refund applications in respect of 28 Bills of Entry during the period January–March 2003 pursuant to issuance of Essentiality Certificates by the Directorate General of Hydrocarbons and in terms of the directions of the Hon'ble Delhi High Court dated 11.03.2003. It is further undisputed that refund in respect of 15 Bills of Entry was ultimately sanctioned only on 26.11.2015, i.e., after a lapse of more than twelve years from the date of filing of the original refund applications.

7.2 We note that the entitlement to interest on delayed refund is governed by Section 27A of the Customs Act, 1962. The provision is unambiguous and mandatory in nature and provides that where any duty ordered to be refunded under Section 27(2) is not refunded within three months from the date of receipt of the refund application under Section 27(1), interest shall be paid from the date immediately after the expiry of three months till the date of refund. The language of the statute leaves no discretion with the authorities once the conditions stipulated therein are satisfied.

7.3 The principal defence of the Revenue, both before the lower authorities and before us, is that since the refund claims were initially rejected by the adjudicating

authority in 2005–06 and refund was granted only after the matter was remanded by this Tribunal in 2015, the refund became “due” only after the appellate order and, therefore, interest cannot be computed from 2003. We find this reasoning to be wholly untenable and directly contrary to the settled position of law.

7.4 The Hon’ble Supreme Court in *Ranbaxy Laboratories Ltd. v. Union of India - 2011 (273) E.L.T. 3 (S.C.)*, while interpreting Section 11BB of the Central Excise Act (*pari materia* with Section 27A of the Customs Act), has authoritatively held that the starting point for computation of interest is the expiry of three months from the date of receipt of the original refund application and not the date of the appellate order allowing refund. The Apex Court categorically held that the Explanation to the provision merely creates a deeming fiction regarding the nature of the refund order but does not postpone the commencement of interest. The ratio laid down therein squarely applies to the present case and is binding.

7.5 Applying the above principle, it is evident that the refund applications filed by the Appellant during January–March 2003 ought to have been disposed of within the statutory period of three months. The fact that the

refund claims were wrongly rejected by the Department and the Appellant was compelled to pursue appellate remedies cannot be used to deny statutory interest. The Department cannot take advantage of its own erroneous actions or prolonged adjudicatory process to defeat the Appellant's entitlement under Section 27A.

7.6 We also find force in the Appellant's contention that the rejection of refund claims on the ground that assessments were not challenged was itself held to be unsustainable by the Hon'ble Supreme Court in the Appellant's own case in *RBF Rig Corporation v. Commissioner of Customs - 2011 (264) E.L.T. 486 (S.C.)*, wherein it was held that in the peculiar facts of the case, especially in view of the directions of the Hon'ble Delhi High Court, the refund could not be denied for want of appeal against assessment. Therefore, the delay in granting refund was entirely attributable to the Department and not to any lapse on the part of the Appellant.

7.7 The Revenue has also sought to justify denial of interest by referring to reassessment of Bills of Entry and submission of indemnity bonds. We are unable to accept this contention. As held by the Tribunal in *Commissioner of Customs (Prev.), Jamnagar v. Reliance Industries Ltd. -*

2015 (317) E.L.T. 621 (Tri.-Ahmd.), procedural requirements or internal departmental processes cannot override the statutory mandate of interest once the refund is delayed beyond the prescribed period. Interest under Section 27A is compensatory in nature and is intended to recompense the assessee for the loss of use of money lawfully due.

7.8 We also find it significant that in respect of the remaining 13 Bills of Entry arising out of the same set of imports and refund applications, interest for the period commencing from 2003 till the date of refund was granted pursuant to Order-in-Appeal dated 20.03.2018, which has admittedly been accepted by the Department. On identical facts, the Revenue cannot be permitted to adopt mutually inconsistent stands by granting interest in one set of cases while denying it in another. Such an approach is contrary to the principles of consistency and fairness in tax administration.

7.9 The Hon'ble Supreme Court in *Union of India v. Hamdard (Waqf) Laboratories – 2017 (51) S.T.R. 214 (S.C.)* has further reinforced the principle that the entire adjudicatory process relating to refund claims must be completed within the statutory period and that interest becomes payable automatically once such period is

breached. The Apex Court emphasized that the liability to pay interest arises by operation of law and is not dependent on any specific direction by an appellate authority.

7.10 In view of the above discussion, we hold that interest under Section 27A of the Customs Act, 1962 is payable to the Appellant from the expiry of three months from the dates of receipt of the original refund applications filed during January–March 2003, till the date of actual refund. The denial of interest on the ground that refund was sanctioned only pursuant to appellate orders is legally unsustainable and contrary to binding judicial precedents.

8. In view of the foregoing discussion and findings recorded hereinabove, we hold that the Appellant is entitled to interest under Section 27A of the Customs Act, 1962 on the refund amount sanctioned *vide* Order-in-Original dated 26.11.2015, with effect from the expiry of three months from the respective dates of filing of the original refund applications in the year 2003 till the date of actual refund. Consequently, the impugned Order-in-Appeal dated 29.09.2016 is set aside. The appeal is accordingly allowed, with a direction to the adjudicating authority to compute and pay the interest payable in terms of Section 27A of the

Customs Act, 1962 within a period of three months from the date of receipt of this order.

9. The appeal is allowed with consequential benefits, if any, in accordance with law.

(Order pronounced in open court on 23.02.2026)

Sd/-
(VASA SESHAGIRI RAO)
MEMBER (TECHNICAL)

Sd/-
(P. DINESHA)
MEMBER (JUDICIAL)

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