M.K. Jokai Agri Plantations (P) Ltd And Anr Vs Union Of India And Ors

Court: Gauhati High Court

Date of Decision: Jan. 29, 2021

Acts Referred: Central Excise Act, 1944 â€" Section 5A, 11, 11B, 11BB
Income Tax Act, 1961 â€" Section 32A, 119, 263

Hon'ble Judges: Soumitra Saikia, J

Bench: Single Bench

Advocate: Dr. Ashok Saraf, F. Islams.C Keyal

Final Decision: Allowed

Judgement

Soumitra Saikia, J

1. The present writ petition has been filed by the petitioners challenging the order-in-original no. 27/R/11B/DIV/DIB/ACD/18-19 dated 31.12.2018

passed by Deputy Commissioner, Central GST Division, Dibrugarh, Assam, whereby the claim of petitioners for interest delayed refund of Central

Excise duty paid as per Notification No. 33/99Ã¢â‚¬"CE dated 08.07.1999 has been rejected in contravention to the law laid down in the Judgment of this

HonÃ¢â‚¬â„¢ble Court rendered in the case of Ã¢â‚¬Å“Amalgamated Plantations (P) LimitedÃ¢â‚¬, wherein this court held that the interest on delayed refund is

payable by the Central Excise department as per Notification No. 32/99-CE and 33/99-CE dated:- 08.07.1999.

2. The facts necessary and essential in the present proceedings are that the petitioner no. 1 company is incorporated under the Companies Act, 1956

having its registered office at Ã¢â‚¬Å“VRAJÃ¢â‚¬, 62/13, Promotesh Baruah, Sarani, Kolkata -700019, West Bengal. The petitioner No.2 is the Bokel Tea

Estate which used to be under the ownership of the M/S Hindustan Lever Limited and thereafter under M/S Rossell Industries Limited. Ultimately,

the Tea Estate came to be under the ownership of the petitioner no.1 company. Both the petitioners are represented in the present proceedings by Mr.

Ashok Sanghvi, Assistant General Manager- Finance & Taxation of the petitioner No. 1 company.

3. The pleaded case of the petitioner is that the Government of India by the Ã¢â‚¬ËœNorth East Industrial PolicyÃ¢â‚¬â„¢ (NEIP), 1997 announced a new

package of fiscal incentives and other concessions for the North East region by the said policy. The various incentives announced and promised for

the new Industrial Units as well as the Industrial Units undergoing substantial expansions were with effect from 01.04.1997. As per the said

Notification No. 33/99-CE dated:- 08.07.1999 all Industrial Units existing before 24.12.1997 and which undertake substantial expansion by way of

increase in installed capacity by not less than 25% on or after 24.12.1997 were eligible for all the exemptions contained in the said Notification. It was

provided by the said Notification that for the purposes of claiming the exemptions, the manufacturers/Industries shall submit statement of duty paid

from the current account to the Assistant Commissioner/Deputy Commissioner Central Excise by the 7th of the following month and the amount

claimed, after due verification, shall be refunded by the Central Excise department by the 15th of the next month.

4. The petitioner company in terms of the said Notifications undertook substantial expansion to the extent of 25% in the Tea Estate, namely, Bokel

Tea Estate (petitioner No. 2) and returns were filed in the form of RT/12 for the month of July 1999 to March 2003 showing that the duty paid as per

the Notification No. 33/99-CE. However, in the year 2001 because of a fire which broke out in the Head Office of Company situated in Doom

Dooma in the State of Assam, the relevant records and the correspondences of the company including documents substantiating the substantial

expansion were all gutted in the fire. It is stated that the said incident was officially communicated to the Superintendent of Central Excise and

Customs.

5. The refund of excise duty was claimed for the petitioner No. 2, for the periods from July 1999 to March 2003. The application seeking refund was

duly supported by the inventory of machines and equipments for the pre and the post expansion periods duly certified by a Chartered Engineer

showing the substantial expansions made. The claims of the refund by the petitioners were objected to by the department by issuing a show-cause

Notice dated:- 12.01.2010. The petitioners replied to the show-cause by its reply dated:- 28.06.2010. However, the Assistant Commissioner Central

Excise, Dibrugarh vide order dated:- 09.07.2010 disallowed the claims of refund of the petitioners in respect of the petitioner no.2 amounting to

Rs.91,49,425 /- (Rupees Ninety One Lakh Forty Nine Thousand Four Hundred Twenty Five only) holding the same to be time barred.

6. Being aggrieved, the petitioners filed (Appeals) before the Commissioner Central Excise, Customs and Service tax (Appeals) at Guwahati. The

Commissioner (Appeals) vide order dated:- 24.12.2012 allowed the appeals of the petitioners and held that it would be unfair to reject the claim of

refund submitted by the petitioners on the grounds of delay. Against the order of the Commissioner (Appeals), the Revenue preferred a further appeal

before the Central Excise, Customs and Service Tax Appellate Tribunal, in Kolkata (CESTAT). The CESTAT by common Judgment and order

dated:- 29.02.2016 allowed the appeals of the Revenue holding that a statement is required to be filed in order to claim refund under the Notification

and filing of RT-12 cannot be considered to be a proper statement. Being aggrieved by the order of the CESTAT dated:- 29.02.2016, the petitioners

filed a Central Excise Appeal before this HonÃ¢â‚¬â„¢ble Court and the same was registered and numbered as Central Excise Appeal No. 08/2016. This

HonÃ¢â‚¬â„¢ble Court vide Judgment and order dated 20.02.2018 allowed the Appeal and set aside the order dated 29.02.2016 passed by the CESTAT.

The HonÃ¢â‚¬â„¢ble Gauhati High Court by Judgment and Order dated:- 29.02.2016 allowed the appeal by holding as under:-

Ã¢â‚¬Å“A bare reading of the above quoted clauses of the Notification makes it clear that the appellant was first required to prove its eligibility

for notified exemptions by establishing that the three industrial units had undertaken substantial expansion of not less than 25% on or

before 24th day of December, 1997 and then file every monthÃ¢â‚¬â„¢s statement of duty paid from the account current to the Assistant

Commissioner. And, if these two conditions were fulfilled, the appellant was entitled to refund of the amount of duty paid. As seen above, the

appellant has fully established before the Commissioner (Appeals) that the three industrial units had undertaken increase by more than

45.80%, 57% and 27.56% after 24.12.1997.The finding of the Commissioner (Appeals) confirming this position was not questioned by the

Revenue in appeals filed before the Tribunal. The eligibility of the appellant for the benefit of exemptions and refund of duty paid stands

conclusively proved. Clause 2(a) of the Notification only says that the manufacturer shall submit a statement of the duty paid by 7th of next

month in which the duty has been paid from the account current. The Notification nowhere mandates the manufacturer to submit a separate

claim for refund of duty paid. The appellant has Page No.# 8/9 admittedly been submitting statements of the duty paid from account current

in RT-12 returns within time with all details before the Assistant Commissioner. The appellant having been once found to be eligible for

exemptions and refund of duty paid, denial of benefit of exemptions and refund on the ground of delay,in our considered opinion, will

cause grave injustice which cannot be permitted. Even otherwise, it is well settled law that non-following of procedural requirement cannot

deny the substantive benefit, otherwise available to the assessee. Also exemptions made with a beneficient object like growth of Industry in a

Region have to be liberally construed and a narrow construction of the Notification which defeats the object cannot be accepted. For these

reasons, we conclude that the impugned order of the Tribunal is not based on correct appreciation of the provisions of Notification and

denial of refund (of duty paid) to the appellant on the ground of delay is wholly unjustified. We also hold that statements of duty paid

submitted in RT-12 returns by the appellant was substantial compliance of Clause 2(a) of the Notification and there was no need for it to

submit a separate statement of the duty paid and claim refund. The Tribunal itself earlier in number of cases viz. Commissioner of Central

Excise vs. Vinay Cement Ltd., 2002 (147) E.L.T. 74; Commissioner of Central Excise vs. Napuk Tea Estate, 2007 (219) E.L.T. 178 and

Dhunseri Tea Estate vs. Commissioner of Central Excise, 2011 (274) E.L.T. 590 has held that statements of duty paid submitted in RT-12

returns amounts to full compliance of Clause 2(a) of the Notification and refund of duty paid cannot be denied for want of separate

statement of such duty paid. A long standing decision adopting a particular construction which may have been acted upon by persons in the

general conduct of affairs may not be departed from on the doctrine of stare decisis.

With these findings, we answer all the substantial questions of law in favour of the appellant. We accordingly set aside the impugned order

dated 29.2.2016 passed by the Tribunal and allow the appeals with cost of Rs.3000/-.Ã¢â‚¬â€‹

7. That after, the Judgment of this HonÃ¢â‚¬â„¢ble Court, the Assistant Commissioner Central Goods and Service Tax vide order-in-Original No.

15/REF/DIV/DIB/ACD/18-19 dated 11.07.2018 held that the petitioners to be eligible for the refund of Central Excise duty and sanctioned the refund

amount of Rs. 91,49,425 /- (Rupees Ninety One Lakh Forty Nine Thousand Four Hundred Twenty Five only) for the period with effect from July,

1999 to February, 2003.

8. The petitioners thereafter filed a petition before the Respondent No.3, claiming interest on delayed refund of Central Excise Duty under Notification

33/1999 vide order dated 08.07.1999. In response to the claim of interest on delayed refund of Excise duty made by the petitioners, a show cause

Notice No. C.No.V(18)27/REF/Bokel/ACD/2018/1251 dated:- 05.09.2018 was issued by the Department to the petitioners asking the petitioners to

show-cause as to why its claim should not be rejected. The petitioners through its representative appeared before the Deputy Commissioner Central

Excise and Service Tax Dibrugarh Division and agitated its claim for interest on delayed refund of Central Excise by referring to several judgments of

this court in support of its claim. Deputy Commissioner Central Goods and Service Tax Dibrugarh, however vide order dated: - 31.12.2018 rejected

the claim for interest on delayed refund of Central Excise duty by the petitioners. Being aggrieved, the petitioners have approached this court by way

of the present writ proceedings.

9. Dr. A. Saraf, learned senior counsel assisted by Mr. F. Islam, learned counsel for the petitioners submits that the rejection of its claim for interest

on delayed refund of Central Excise Duty by the Deputy Commissioner by its impugned order dated 31.12.2018 is completely contrary to the law laid

down by this court in the case of Amalgamated Plantations (P) Ltd, vide Judgment and Order dated 08.11.2012.

10. According to Dr. Saraf, the Judgment of this court rendered in Amalgamated Plantation (P) Ltd. vide Judgment and Order dated 08.11.2012 after

elaborately considering the provisions of the Notifications dated 08.07.1999 held that the petitioners therein were entitled to interest under Section

11BB of the Central Excise Act 1944 on the Excise duty refunded to them. The revenue being aggrieved preferred a review petition being review

petition No. 121 of 2014 against the Judgment and Order dated:- 08.11.2012. This HonÃ¢â‚¬â„¢ble Court by its order dated:- 14.03.2016 dismissed the

review petition filed by the revenue and rejected the contentions of the revenue. The revenue further carried the matter to the Supreme Court by filing

an SLP. The Apex court on the ground of Limitation by order dated 09-12-2016 dismissed the Appeal (SLP) preferred by the Revenue. Under these

circumstances the law laid down by this Court in the case of Amalgamated Plantations (P) Ltd has attained finality and being the jurisdictional High

Court, the same is binding upon the Revenue Authorities. The learned Senior Counsel submits that in terms of the ratio laid down in the case of

Amalgamated Plantations, the revenue was bound to allow the claims of interest on delayed refund of Excise duty. Accordingly, it is submitted that the

rejection of the claims of the interest on delayed refund of Central Excise Duty by the Revenue by the impugned order dated:- 31.12.2018 is bad in

law and the same should therefore be set aside and quashed.

11. The learned Senior counsel further submits that the impugned order while rejecting the claims of interest of Excise duty was premised inter alia on

incorrect facts in as much as at paragraph 17 of the impugned order the Deputy Commissioner Central Goods and Service Tax, Dibrugarh Division

referred to an alleged finding by the then Assistant Commissioner Central Excise Dibrugarh Division, that there was less than 25% expansion in the

installed capacity of the factory after 24.12.1997 and that the assessee did not fulfill the conditions laid down in Page 3(b) of the Notification No.

33/99 dated 08.07.1999 and therefore the eligibility of the assessee for exemption of duty under the Notification No. 33/99-CE dated 08.07.1999 was

not proved at the time of claiming refund. Dr. Saraf, learned Senior counsel submits that this finding of the Assistant Commissioner referred to is not

at all relevant for the purpose of the present issue at hand, in as much as the refund of Excise duty claimed by the petitioners has already been granted

vide sanction order dated:- 11.07.2018, pursuant to the direction issued by this HonÃ¢â‚¬â„¢ble Court. That apart in the Central Excise Appeal No. 8/2016,

which was allowed vide Judgment and order dated 20.02.2018 by Division Bench of this court, at paragraph 11 of the said Judgment, it is recorded

that the petitioners in respect of the 3 Industrial Units had undertaken increase by more than 45.80%, 57% and 27.56% after 24.12.1997. The finding

of the Commissioner (Appeals) to this effect was never questioned by the Revenue in appeals before the Tribunal. Dr. Saraf contends that this finding

of fact recorded by this court in its Judgment and order dated 20.02.2018 in Central Excise Appeal No. 08/2016 have remained un-assailed by the

Revenue and pursuant to this order, the refund sought for by the petitioners was sanctioned vide the order dated 11.07.2018 for an amount of Rs.

91,49,425 /- (Rupees Ninety One Lakh Forty Nine Thousand Four Hundred Twenty Five only). Under such circumstances such incorrect recital of

facts by the Deputy Commissioner in the impugned order is prima facie reflection of the non-application of mind by the revenue and therefore the

impugned order passed being arbitrary, the same should therefore be set aside and quashed.

12. Dr. Saraf, learned senior counsel further submits that the Deputy Commissioner in its impugned order referred to CBEC Circular No.

842/19/2006-CX dated:- 08.12.2006 claiming it to be binding on the department and therefore the provisions of Section 11 B of Central Excise Act

1944 would not apply to Notification No. 32/99-CE and 33/99-CE both dated 08.07.1999 and accordingly the claims of the petitioners for interest on

delayed payment under Notification No. 33/99-CE dated 08.07.1999 cannot be entertained. Such a view, according to Dr. Saraf is completely opposed

and contrary to the ratio laid down by this court in the case of Amalgamated Plantation (P) Ltd. The learned Senior counsel strenuously submits that

once the jurisdictional High Court has laid down the law declaring that the provisions of section 11B and 11BB will be equally applicable for Excise

duty refunds made in respect to Notifications No. 32/99-CE and 33/99-CE both dated 08.07.1999, and the Review Petition before this HonÃ¢â‚¬â„¢ble

court and the SLP before the Apex Court having been dismissed, such interpretations sought to be made by the Deputy Commissioner in his impugned

order besides being contrary and opposed to the law laid down by this court in the case of Amalgamated Plantation is also contumacious. Accordingly,

the learned Senior counsel submits that the impugned order being arbitrary and issued without any application of mind is bad in law as the same being

contrary to the law laid down by this court; the impugned order should be set aside and quashed and the revenue to be directed determine the interest

payable on delayed refund of Central Excise duty and to make payment of the same to the petitioners in terms of the law laid down by this court in the

case of Amalgamated Plantations (Supra).

13. In support of his contentions, the learned Senior Counsel relied on the following Judgments:-

1. Kaziranga Tea Manufacturers and Anr. -Vs- The Union of India and Ors. WP (C) No. 2325/2012. This writ petition was also disposed of

along-with Writ Petition No. 116/2012 (Amalgamated Plantations Limited) by a Division Bench of this Court and by giving similar directions

for the payment of interest on delayed refund of Central Excise Duty.

2. Pan Parag India Ltd. Ã¢â‚¬"Vs- The Union of India and Anr. WP (C) No. 4772/2016: This order was referred to by the learned senior

counsel for the petitioner to support his contentions that in similar matters, the department had granted relief in terms of the direction issued

by the Commissioner, Customs and Central Excise (Appeal). A Division Bench of this Court by order dated 12-08-2016 disposed of the writ

petition by recording that the departmental authorities had discharged the responsibility under section 11BB of the Central Excise Act.

3. Siemens India Ltd. & Anr. Ã¢â‚¬"Vs- K. Subramanian, ITO, Companies Circle Ã¢â‚¬" IV (4), Bombay, and Anr. 1982 SCC Online Bom 339:-

This case is cited by the learned senior counsel to support his contention that pendency of an appeal or Special Leave Petition before the

Supreme Court does not denude a decision and binding effect until it is set aside and that decision is binding on all upon whom it operates

as a binding precedent. Not to follow the decision of the jurisdiction of the High Court would tantamount to contempt of the Court.

4. Seth Ganpat Ram Cotton Ginning and Pressing Factory Ã¢â‚¬"Vs- State of Punjab and Ors. 1972 SCC Online P & H 419:- In this case the

Punjab and Haryana High Court held that the conduct of the assessing authority in not complying with an order passed by that High Court

will amount to gross violation of judicial discipline and amount to contempt of court. The Punjab and Haryana High Court held that no

subordinate authority is allowed to say so that the judgment delivered by the High Court is incorrect.

5. State of Andhra Pradesh Ã¢â‚¬"Vs- Commercial Tax Officer and Another 1987 SCC Online AP 275:- In this case the Andhra Pradesh High

Court observed that held that while dealing with a contempt case arising out of a non compliance of the orders of the high Court by revenue

authorities of the state the High Court held that there are innumerable case which the High Court had come across where the authorities

observed with impunity that they cannot follow the decision of this Court o a verity of grounds like pendency of an appeal or an SLP before

the Supreme Court. By this order, the High Court while disposing of the contempt petition put to notice all the respondent concerned that the

High Court would not hesitate to take stern action for contempt if the decisions of the High Court are disregarded unless they are

suspended by orders of a Supreme Court.

6. Hot Millions Ã¢â‚¬"Vs- Union Territory, Chandigarh and Anr. 1990 SCC Online P & H 1288:- In this case the Punjab and Haryana High

Court held that mere filing of an SLP before the Supreme Court would operate as a stay order and accordingly the respondent were

directed to implement orders of the Punjab and Haryana High Court passed in the writ petition referred therein.

7. Nicco Corporation Ltd. Ã¢â‚¬"Vs- Commissioner of Income Ã¢â‚¬" Tax and others 2001 SCC Online Cal 846:- In this case also the Calcutta

High Court held that orders passed by the High Court were ignored by the Revenue Authorities simply on the ground that SLP was

contemplated to be filed against the judgment of the Court and Calcutta High Court such approach of the revising authority is blatant

breach of judicial discipline as per the judgment of the Supreme Court.

8. Commissioner of Sales Tax Ã¢â‚¬"Vs- Vora Wires 1998 SCC Online MP 397:- In this case the Madhya Pradesh High Court has held that

similar views of an earlier judgment having a binding effect unless interfered with by the Apex Court.

9. V. S. Narayanan Nair Ã¢â‚¬"Vs- Sales Tax Officer, Palai 1971 SCC Online Ker 191:- In this case the Kerela High Court has held that

decision of a Superior Tribunal is binding on an inferior tribunal so long it remains in forced.

10. Union of India and Ors. Ã¢â‚¬"Vs- Kamlakshi Finance Corporation Ltd. 1992 Supp (1) Supreme Court Cases 443:- This judgment relied

upon by the learned senior counsel to support his contention that the principle of judicial discipline required that the orders of Higher

Appellate Authorities be followed unreservedly by the subordinate authorities.

11. Ram Bai Ã¢â‚¬"Vs- Commissioner of Income Tax (1999) 3 SCC 30:- In this judgment relied upon by the learned senior counsel to support

his contention that the Apex Court has held that so long the judgment of the High Court was holding the field, the subordinate revenue

authority cannot apply a test different from that laid down by the said judgment of the High Court too.

12. Commissioner of Income Tax, Bhopal Ã¢â‚¬"Vs- G. M., Mitttal Stainless Steel (p) Ltd. (2003) 11 SCC 441:- Similar view has been expressed

by the Apex Court in this case by holding that the High Court decisions will bind the authorities under the Central Act (Income Tax Act

therein) within the state. The fact that a decision of another High Court on the same point was pending disposal before the Supreme Court

was held irrelevant.

13. Amalgamated Plantations (P) Ltd. Ã¢â‚¬"Vs- Union of India (2013) 2 GLR 732:- This judgment rendered by the Division Bench of this

Court which is relied upon by the learned senior counsel for the petitioner that the interest payable under section 11BB for delayed Excise

refund, this judgment is still holding the field and therefore is binding precedent on the revenue authorities.

14. Union of India Ã¢â‚¬"Vs- Amalgamated Plantations (P) Ltd. (2016) 5 GLR 403:-The review petition against the judgment above which was

dismissed by a Division Bench of this Court upholding the judgment of the Division Bench dated 08-11-2012.

15. Builders Association of India Ã¢â‚¬"Vs- Union of India & Ors (1995) supp (1) SCC 41:- This judgment is relied on by the learned senior

counsel to contend the reference to the CBCE (Central Boards of Custom and Excise) circulars to the effect that under section 11B of the

Central Excise Act 1944 is not applicable in case of refunds made under notification no. 32/99-CE dated 08-07-99, cannot be a ground to

deny the interest claim by the petitioner in view of the judgment passed by this Court having a binding effect not on the revenue authorities.

In this case the Apex Court in reference to a circular, in the context of the facts of the case therein, held that the circular has no significant

relevance as an instructions or directions under section 119 vis-Ãƒ -vis section 32A of the Income Tax Act 1961.

16. Keshaviji Ravji and Co. and Ors Ã¢â‚¬"Vs- Commissioner of Income Tax (1990) 2 SCC 231:- In this case with regard to a circular of the

CBDT which was submitted to have binding effect on authorities under the Act, the Apex Court held that the Boards (CBDT) had cannot pre-

aim of judicial interpretation of the scope of ambit of the provisions of the Act by issuing circular on the subject.

17. Bhartia Industries Ltd. Ã¢â‚¬"Vs- Commissioner of Income Tax 2011 SCC Online Cal 5493:- In this case the Calcutta High Court held that

circulars issued by the Board under the provisions is meant for guiding officers of the revenue for administrative purpose of enforcing the

provisions of the Act. But an authority under the Act excising quasi judicial functions should be guided by the law of the land as enunciated

on the questions involved by various judicial authorities which have binding effect. The Calcutta High Court held that once the relevant

issue is decided by the High Court at the highest level , the very basis and substratum is disappeared.

18. All Gujarat Federation of Tax Consultants & Ors Ã¢â‚¬"Vs- Central Board of Direct Taxes & Ors. 1995 SCC Online Guj 337:- In this case

the Gujrat High Court held that a circular issued by the Boards earlier or later do not binding by the Courts.

19. Hindustan Aeronautics Ltd. Ã¢â‚¬"Vs- Commissioner of Income Tax, Karnataka (2000) 5 SCC 365:- In this case the Apex Court held that

circular or instruction given by the Board are not doubt in binding in law in an authority under the Act but when the supreme Court or the

High Court has declared the law on the question arising for consideration it will not be open to a Court to direct that the circular should be

given effect to and not the view expressed in a decision of a High Court or a Supreme Court.

20. Geep Industrial Syndicate Ltd. Ã¢â‚¬"Vs- Union of India & Ors 1987 (13):- In this case the Delhi High Court held that a circular of the

Board will be binding upon to an Income Tax Officer in respect of matters relating to general interpretation of a provision of the statue, but

the circular cannot overwrite judicial decision rendered on the statute. In the fields which are covered by judicial decision circular will not

be conclusive so far as the Income Tax Officer is concerned.

21. Bengal Iron Corporation and another Ã¢â‚¬"Vs- Commercial Tax Officer and ors. 1994 Supp (1) SCC 310:- In this case the Apex Court

has held that clarification and circular issued by Central or State Government merely represent their understanding of the statutory

provisions. They are binding open to the Court.

22. Commissioner of Income Tax Ã¢â‚¬"Vs- Blaze Advertising (Delhi) Pvt. Ltd. 2001 SCC Online Del 1337:- In this case the Delhi High Court

relied on the judgments of the Apex Court rendered in the case of Hindustan Aromatic held that when the Supreme Court or High Court has

declared a law on a question it is not open to the Court to direct that the circular should be given effect to and not decision.

23. Reiter Machine Works Ltd. Ã¢â‚¬"Vs- Commissioner of Income-Tax and Another, 1994 SCC Online Mad 668:- In this case the Madras

High Court has held that that a circular by the department cannot provide guidance in a matter of construction to be pleased on the scope

of provisions by a Court. Circular and interdepartmental communications cannot confer any rights or provide any legal basis to claim any

right enforceable before a court of law excising jurisdiction under 226of the Constitution of India.

14. Opposing the contentions made by the learned counsel for the petitioners, Mr. S.C. Keyal, learned standing counsel representing the Goods and

Service Tax Department submits that there is no infirmity in the impugned order rejecting the claim of interest on delayed refund by the Deputy

Commissioner i.e. respondent No. 3 herein. The learned standing counsel submits that while the judgment rendered by this HonÃ¢â‚¬â„¢ble Court in

Amalgamated Plantation Limited (Supra) interpreted the applicability of section 11B in respect of excise refunds relating to Notification No. 32/99

dated 08-07-99, this HonÃ¢â‚¬â„¢ble Court in the said judgment did not consider the BoardÃ¢â‚¬â„¢s Circular No. 842/19/2006-CX dated 08-12-2006 which

provided that provision of section 11B of Central Excise Act, 1944 would not apply in Notification No. 32/99-CE and 33/99-CE both dated 08-07-99.

Mr. Keyal submits that although in the subsequent review petition preferred by the Revenue being Review Petition No. 121/2014 in Amalgamated

Plantation (P) Limited which was disposed of on 14-03-2016, this HonÃ¢â‚¬â„¢ble Court held that the circulars cannot override the statutory provisions

under section 11B of the Central Excise Act as had been interpreted earlier by this Court and therefore, the Review Petition was dismissed. Mr.

Keyal, learned standing counsel submits that in the SLP which was preferred by the Revenue although the same was dismissed on the ground of

limitation, the question of law raised in the SLP was left open by the Apex Court by the order dated 09-12-2016. Accordingly, in other similar matters

this issue of applicability of the BoardÃ¢â‚¬â„¢s Circulars are questions which are raised in those matters which are pending disposal before this Court.

Mr. Keyal, however, fairly submits that there is no interim direction suspending the operation of the Judgment rendered by this Court in Amalgamated

Plantation Limited. The further submission of Mr. Keyal is that where there is any ambiguity in respect of exemption, it is to be strictly interpreted in

favour of the Revenue. Mr. Keyal submits that the applicability of the BoardÃ¢â‚¬â„¢s Circulars not having been decided by this Court in the case of

Amalgamated Plantation (P) Limited [WP(C) No. 1166 of 2012 decided on 08-11-2012], the subsequent judgment rendered in the Review Petition

could not have returned any finding as regards the applicability of the BoardÃ¢â‚¬â„¢s Circular in respect of interest on delayed payment. As such, there

appears to be an ambiguity as to whether the Section 11BB and Section of the Central Excise Act, 1944 in respect of interest on delayed refund will

have any application in refunds made under Notification No. 32/99 and 33/99 both dated 08-07-1999.

15. In support of his contentions, Mr. Keyal relies on the judgment of the Apex Court in the case of Commissioner of Custom (import) vs- Dilip

Kumar and Company reported in (2018) 9 SCC 1 and refers to paragraphs 40, 41 and 42 of the judgment which contended below:

40. The aforesaid placitum is suggestive of the fact that the Courts utilised the rule of strict interpretation in order to decipher the intention

of the legislature and thereafter provide appropriate interpretation for the exemption provided under the provisions of the Act which was

neither too narrow nor too broad. It may be noted that the majority did not take a narrow view as to what strict interpretation would

literally mean; rather they combined legislative intent to ascertain the meaning of the statute in accordance with the objective intent of the

legislature.

41. On the contrary, the minority opinion of B.P. Sinha, J. (as his Lordship then was) provided a purposive interpretation for Section 5(2)

(a)(iii) of the Act, which is clear from the following passage: (CTO case [Union of India v. CTO, AIR 1956 SC 202] , AIR p. 210, para 24)

Ã¢â‚¬Å“24. Ã¢â‚¬Â¦ The judgment under appeal is based chiefly on the consideration that the exemption clause in question does not in terms refer to

the newly created department which now goes by the name of the Ministry of Industry and Supply. But this department insofar as it deals

with industry, is not concerned with the main purchasing activities of the Government of India. The exemption was granted in respect of the

purchasing activity of the Government of India and that function continues to be assigned to the Supply Department which has now become

a wing of the newly created department of the Government. The question therefore arises whether in those circumstances the Government of

India could claim the benefit of the exemption. The High Court in answering that question in the negative has gone upon mere

nomenclature. It has emphasized the change in the name and overlooked the substance of the matter.Ã¢â‚¬â€‹

42. The minority construed Ã¢â‚¬Å“strict interpretationÃ¢â‚¬ to be an interpretation wherein least number of Ã¢â‚¬Å“determinates in terms of

quantityÃ¢â‚¬ would fall under the exemption. The minority referred to an old English case of IRC v. James Forrest [IRC v. James Forrest,

(1890) LR 15 AC 334 (HL)] . It may be relevant to note that the minority could not find the justification to apply strict interpretation as the

exemption notification was broad enough to include exemptions for commodities purchased by the Government of India.

16. The issues which are arise for consideration in the present proceedings can be summarized as under:-

(i) Whether interdepartmental communication or departmental circulars in respect of an interpretation of a statutory provision will have any effect

even when the interpretation sought to be projected is in conflict and/or contrary to law declared by the jurisdictional High Court?

17. Before adverting to the issue raised in the present proceeding it is necessary to refer to relevant provisions of Notification No. 33/99 dated 08-07-

1999. Notification No. 33/99 dated 08-07-1999 grants the benefit of exemption on the goods specified in the schedule appended thereto from so much

of the duty of Excise leviable thereon under any of the said Acts as is equivalent to the amount of duty paid by the manufacturer of goods other than

the amount of duty paid by utilization of CENVAT credit under the CENVAT Credit Rules 2001. In order to avail the benefit, the manufacturer shall

submit a statement of duty paid, by utilization of CENVAT credit under the CENVAT Credit Rules 2001, to the Assistant Commissioner of Central

Excise or the Deputy Commissioner of Central Excise as the case may by the 7th day of next month to the month under consideration. Thereafter, the

Assistant Commissioner or the Deputy Commissioner of Central Excise as the case may be upon due verification determine the amount refunded to

the manufacturer by the 15th day of the month to the month under consideration.

18. A perusal of the judgment and order dated 08-11-2012 rendered in Amalgamated Plantation (P) Limited by this Court reveals that if any refund of

Excise Duty is ordered under section 11B the same has to be refunded within 3 (three) months of receipt of application under Sub-Section 1 of that

section failing which interest will have to be paid. This Court in Amalgamated Plantation Limited held that the language of section 11B is very clear

and unambiguous. This Court held that language of Section 11B does not differentiate between any kind of Excise Duty refund, whether duty paid in

excess or duty paid which are exempted. This Court ultimately held that the petitioners therein to be entitled to interest under section 11BB of the

Central Excise Act 1944 leaving the jurisdictional authority to determine the amount paid. The relevant paragraphs of the Judgment of this Court

rendered in WP(C)/1166/2012 [Amalgamated Plantation (P) Limited] are extracted below:-

Ã¢â‚¬Å“25. Before we proceed further, relevant portion of the notification dated 08-07-1999 may be looked into. As has already been noticed

earlier, the said notification has been issued amongst others in exercise of the powers conferred by sub-section (1) of section 5A of the

Central Excise Act, 1944. The exemption provided by the said notification is given effect to in the following manner-

(i) the manufacturer shall submit a statement of the duty paid to the jurisdictional central excise authority by the 7th day of the next month in

which the duty has been paid,

(ii) the jurisdictional central excise authority, after verification, shall refund the amount of duty paid during the month under consideration

to the manufacturer by the 15th day of the next month,

(iii) if there is likely to be any delay in the verification, the jurisdiction al central excise authority shall refund the amount on provisional

basis by the 15th day of the next month to the month under consideration and, thereafter, may adjust the amount of refund by such amount

as may be necessary in the subsequent refunds.

26. Thus, it is quite clear the once it is held that a manufacturer is entitled to exemption of excise duty in terms of the notification dated 08-

07 -1999, the excise duty paid shall be refunded to the manufacturer as per the schedule mentioned in the said notification. Even in case of

likely delay, refund has to be made on provisional basis. Therefore, there cannot be any manner of doubt that the admissible excise duty

refund cannot be withheld by the central excise authority.

27. Section 11B of the Central Excise Act, 1944 deals with claim for refund of duty. It provides that any person claiming refund of any duty

of excise may make an application with relevant documents and evidence for refund of such duty to the Assistant Commissioner of Central

Excise before the expiry of six months from the relevant date. Under sub-section (2) of section 11B, if on receipt of any such application,

the Assistant Commissioner is satisfied that the whole or any part of the duty of excise paid by the applicant is refundable, he ma y make an

order accordingly.

28. Under section 11BB of the Central Excise Act, 1944, if any duty ordered to be refunded under sub-section (2) of section 11B to any

applicant is not refunded within three months from the date of receipt of application under sub-section (1) of that section, there shall be

paid to that applicant interest at such rate which may be fixed by the Central Board of Excise and Customs on such duty from the date

immediately after the expiry of three months from the date of receipt of such application till the date of refund of such duty.

29. From a conjoint reading of sections 11B and 11BB of the Central Excise Act, 1944, it is apparent that if any refund of excise duty is

ordered under section 11B(2), the same has to be refunded within three months from the date of receipt of application under sub section (1)

of that section, failing which interest will have to be paid. Language of section 11B is very clear and unambiguous. It speaks of claiming

refund of any (emphasis ours) duty of excise. No exception is provided. It does not distinguish or differentiate between any kind of excise

duty refund, whether duty paid in excess or duty paid which are exempt ed. As pointed out by the HonÃ¢â‚¬â„¢ble Supreme Court in the case of

Ranbaxy Laboratories Ltd. -Vs- Union of India reported in (2011) 10 SCC 292, it is a well-settled proposition of law that a fiscal legislation

has to be construed strictly and o ne has to look merely at what is said in the relevant provision; there is nothing to be read in; nothing to

be implied and there is no room for any intendment.

30. In the case of Ranbaxy Laboratories Limited (supra), HonÃ¢â‚¬â„¢ble Supreme Court while examining the aforesaid two provisions,

referred to a circular dated 01-10-2002 issued by the Central Board of Excise and Customs, New Delhi wherein and whereby the Board

stressed that the provisions of section 11BB of the Central Excise Act, 1944 are attracted automatically for any refund (emphasis ours)

sanctioned beyond a period of three months. HonÃ¢â‚¬â„¢ble Supreme Court has held that liability of the Revenue to pay interest under section

11BB commences from the date of expiry of three months from the date of receipt of application for refund under section 11B(1) and not on

the expiry of the said period from the date on which the order of refund is made.

31. We also find that a Single Bench of this Court in (2004) 171 ELT 458 (Hindustan Coca-Cola Beverages Pvt. Ltd. -Vs-Union of India)

while directing refund of excise duty paid in terms of notification dated 08-07-1999, had also directed payment of interest for delayed

payment as per provision of section 11 of the Central Excise Act, 1944.

32. Thus, in view of the discussions made above, we are of the unhesitant view that section 11B of the Central Excise Act, 1944 does not

exclude claim of refund made in terms of the notification dated 08-07-1999. Petitioners would, therefore, be entitled to interest under

section 11BB of the Central Excise Act, 1944 on the excise duty refunded to them. The jurisdictional excise officers shall now determine the

interest amount payable to the petitioners for the relevant periods. The amounts found due shall be paid to the petitioners within three

months from today.

33. Writ petitions are allowed. However, looking to the facts and circumstances of the cases, there will be no order as to cost.

19. In the subsequent Review Petition preferred by the Revenue seeking review of the judgment and order dated 08-11-2012, this Court by judgment

and order dated 14-03-2016 dismissed the Review Petition and maintained the earlier judgment and order passed in this Court. The Review Petition

was preferred by the Revenue that therefore two (2) Central Government Circulars dated 19-12-2002 and 08-12-2006 whereby it was provided that

the provisions of Section 11B of the Central Excise Act, 1944 would not be applicable in case of exemption notification dated 08-07-1999. However,

as stated above, the Review Petition preferred by the Department was accordingly rejected on the grounds and reasons mentioned therein. The

relevant paragraphs of the judgment of this Court rendered in Union of India v. Amalgamated Plantations (P.) Ltd. are extracted below:-

Ã¢â‚¬Å“16. Review has been sought for on the ground that two Central Government circulars dated 19.12.2002 and 8.12.2006 have made it

clear that provision of section 11B of the Central Excise Act, 1944 would not be applicable in case of exemption notification dated

8.7.1999. On the basis of the above two circulars it is contended that writ petitioner would not be entitled to interest on the delayed refund

of excise duty. Though this argument was advanced before the writ court, yet the writ court came to an erroneous finding. Therefore, such

finding is required to be reviewed.

17. On due consideration, we are unable to accept the contention advanced by the review petitioners. The circulars dated 19.12.2002 and

8.12.2006 are executive in character. It cannot over-ride statutory provisions such as section 11B of the Central Excise Act, 1944 as

interpreted by the court. Moreover, all these aspects were gone into in detail by the writ Court while passing the judgment and order dated

8.11.2012. In the garb of review, it appears that review petitioners actually seek rehearing of the writ petition, which is not permissible.

18. No case for review is made out. Review petition is dismissed.Ã¢â‚¬‹

20. A careful perusal of the judgment rendered by the Division Bench of this Court clearly reveals that this Court in clear and unambiguous term

upheld the claim of the petitioner therein seeking interest on delayed refund of Central Excise Duty. This Court categorically held that the provisions in

respect grant of interest on delayed refund as provided under the Central Excise Act 1944 is equally applicable to situation relating to delayed refund

of Excise Duty paid under order in relation to notification no. 33/99 dated 08-07-1999. That apart it is also seen from the case laws referred to the

learned senior counsel for the petitioner that by the same Division Bench similar orders were also passed holding the claims of the petitioner in respect

of interest in delayed refund in the case of Kaziranga Tea Manufacturers and Anr vs The Union of India & Ors in WP(C)/2325/2012 decided on 08-

11-2012.

21. That apart it is also seen that in the case of Pan Parag India Ltd. vs The Union of India (WP(C)/4772/2016) another Division Bench of this Court

had closed the proceedings upon submissions made before the Court that refund orders have been issued to the manufacturer (the petitioner therein)

in pursuance to direction given by the Departmental Appellate Authority. As such it is evident that the judgment rendered by the Division Bench of

this Court in Amalgamated Plantations (P) Limited has been consistently followed by this High Court and/or its in subsequent Judgment/Orders.

Further it is also not disputed by the learned counsel for the Revenue that the operation of the said Judgment has not been suspended by any interim

orders passed by the Apex Court in any appeal preferred by the Revenue. Accordingly as of today the Judgment and order passed in Amalgamated

Plantations (P) Limited holds the field that Section 11BB is equally applicable to exercise refunds made under Notification No. 33/99 dated 08-07-

1999.

22. The Apex Court has time and again summarized the importance and requirement of maintaining judicial discipline by quasi judicial authorities. In

the case of Kamalakshi Finance Corporation Ltd. reported in 1992 Supp (1) SCC 443 the Apex Court has held that:

Ã¢â‚¬Å“6Ã¢â‚¬Â¦Ã¢â‚¬Â¦Ã¢â‚¬Â¦Ã¢â‚¬Â¦Ã¢â‚¬Â¦Ã¢â‚¬Â¦...it is of utmost importance that, in disposing of the quasi-judicial issues before them, revenue officers are bound

by the decisions of the appellate authorities; The order of the Appellate Collector is binding on the Assistant Collectors working within his

jurisdiction and the order of the Tribunal is binding upon the Assistant Collectors and the Appellate Collectors who function under the

jurisdiction of the Tribunal. The principles of judicial discipline require that the orders of the higher appellate authorities should be

followed unreservedly by the subordinate authorities. The mere fact that the order of the appellate authority is not ""acceptable"" to the

department - in itself an objectionable phrase - and is the subject matter of an appeal can furnish no ground for not following it unless its

operation has been suspended by a competent court. If this healthy rule is not followed, the result will only be undue harassment to

assessees and chaos in administration of tax laws.Ã¢â‚¬â€‹

23. The Apex Court in the case of Ram Bai vs Commissioner of Income Tax reported in (1999) 3 SCC 30 has held-

Ã¢â‚¬Å“ Ã¢â‚¬Â¦Ã¢â‚¬Â¦Ã¢â‚¬Â¦Ã¢â‚¬Â¦Ã¢â‚¬Â¦Ã¢â‚¬Â¦Ã¢â‚¬Â¦..the Full Bench of the High Court had in its judgment held that actual user of the land for agricultural purposes

was not necessary for making it an agricultural land and it was sufficient if the land could have been put to agricultural use. The judgment

of this Court was rendered only on 6-8-1976, long after the reopening of the assessment by the ITO in the present case. Thus, when he

invoked Section 147(a) of the Act, the aforesaid judgment of the Full Bench of the Andhra Pradesh High Court was holding the field.

Hence, the ITO could not have applied a test different from that laid down by the said Full Bench for determining whether the land in

question in this case was an agricultural land. Consequently, the decision of this Court in CWT v. Officer-in-Charge (Court of Wards)

[(1976) 3 SCC 864 : 1976 SCC (Tax) 411 : (1976) 105 ITR 133] will be of no help to the Revenue.Ã¢â‚¬â€‹

24. The Apex Court in the case of CIT v. GM, Mittal Stainless Steel (P) Ltd., reported in (2003) 11 SCC held-

Ã¢â‚¬Å“6. In this particular case, the Commissioner has not recorded any reason whatsoever for coming to the conclusion that the assessing

officer was erroneous in deciding that the power subsidy was capital receipt. Given the fact that the decision of the jurisdictional High

Court was operative at the material time, the assessing officer could not be said to have erred in law. The fact that this Court had

subsequently reversed the decision of the High Court would not justify the Commissioner in treating the assessing officer's decision as

erroneous. The power of the Commissioner under Section 263 of the Income Tax Act must be exercised on the basis of the material that was

available to him when he exercised the power. At that time, there was no dispute that the issue whether the power subsidy should be treated

as capital receipt had been concluded against the Revenue. The satisfaction of the Commissioner, therefore, was based on no material,

either legal or factual which would have given him the jurisdiction to take action under Section 263 of the Income Tax Act.Ã¢â‚¬‹

The effect of the interpretation of the provisions of the statute by a Departmental circular vis-Ãƒ -vis the law laid down by the jurisdictional High Court.

The principle summarized by the Apex Court can be culled out as under:-

25. The Apex Court in the case of Keshavji Ravji & Co. v. CIT, (1990) 2 SCC 231 held-

Ã¢â‚¬Å“32. This contention and the proposition on which it rests, namely, that all circulars issued by the Board have a binding legal quality

incurs, quite obviously, the criticism of being too broadly stated. The Board cannot pre-empt a judicial interpretation of the scope and ambit

of a provision of the Ã¢â‚¬ËœActÃ¢â‚¬â„¢ by issuing circulars on the subject. This is too obvious a proposition to require any argument for it. A

circular cannot even impose on the tax payer a burden higher than what the Act itself on a true interpretation envisages. The task of

interpretation of the laws is the exclusive domain of the courts. However, Ã¢â‚¬" this is what Sri Ramachandran really has in mind Ã¢â‚¬

circulars beneficial to the assessees and which tone down the rigour of the law issued in exercise of the statutory power under Section 119

of the Act or under corresponding provisions of the predecessor Act are binding on the authorities in the administration of the Act. The

Tribunal, much less the High Court, is an authority under the Act. The circulars do not bind them. But the benefits of such circulars to the

assessees have been held to be permissible even though the circulars might have departed from the strict tenor of the statutory provision

and mitigaged the rigour of the law. But that is not the same thing as saying that such circulars would either have a binding effect in the

interpretation of the provision itself or that the Tribunal and the High Court are supposed to interpret the law in the light of the circular.

There is, however, support of certain judicial observations for the view that such circulars constitute external aids to construction.Ã¢â‚¬â€¹

26. The Apex Court in the case of Hindustan Aeronautics Ltd. v. CIT, (2000) 5 SCC 365 held-

6. However, the learned counsel for the appellant relied on the decisions in Navnit Lal C. Javeri v. K.K. Sen [(1965) 56 ITR 198 : AIR 1965

SC 198] , Ellerman Lines Ltd. v. CIT [(1972) 4 SCC 474 : 1974 SCC (Tax) 304 : (1971) 82 ITR 913] and K.P. Varghese v. ITO [(1981) 4

SCC 173 : 1981 SCC (Tax) 293 : (1981) 131 ITR 597] to contend that the circular issued by the Board under Section 119 of the Act is

binding on the Commissioner in terms of which he was bound to examine the revision of the appellant on merits and the order of the learned

Single Judge merely gives effect to such a course. Dr Gauri Shankar, learned Senior Advocate for the Revenue, however, pointed out by

referring to several decisions of this Court to the effect that the circulars or instructions given by the Board are no doubt binding in law on

the authorities under the Act but when the Supreme Court or the High Court has declared the law on the question arising for consideration

it will not be open to a court to direct that a circular should be given effect to and not the view expressed in a decision of the Supreme Court

or the High Court. We find great force in this submission made by the learned Senior Advocate for the Revenue and find absolutely no merit

in this appeal and the same stands dismissed, but in the circumstances of the case, there shall be no orders as to costs.

27. Therefore from the above principles culled out from the various Judgments of the Apex Court it is seen that once the judicial pronouncement is

made by the High Court or by the Supreme Court, unless the same is subsequently interfered with by judicial means, the same will have a binding

effect on all Subordinate Authorities including the quasi judicial authorities like the respondent in the present case. Unless the respondent Department

come up in any appeal and seek to reagitate the issues already decided by this Court, they cannot, by referring to departmental circulars seek to arrive

at a contrary view and/or even attempt to disregard the judgment of the jurisdictional High Court holding the field at the moment.

28. The judgment of the Apex Court rendered in Commissioner of Custom (import) vs- Dilip Kumar and Co. (supra) is pressed into service by Mr.

S.C. Keyal, learned standing counsel appearing for the respondent to refer to the principle of interpretation of taxing statute. In this judgment the Apex

Court has held that where there is an ambiguity in an exemption notification or exemption clause, then the benefit of such ambiguity cannot be

extended to the subject/assessee by applying the principle that obscure and/or ambiguity or doubtful fiscal statute must receive a construction

favouring the assessee. I respectfully concur with this judgment of the Apex Court. But in the facts of the present case, ambiguity has been lead to

rest by a ruling of a Division Bench of this Court, as discussed above, in the case of Amalgamated Plantations (P) Limited (supra). The said judgment

lays down the proposition of law that provisions of section 11B and 11BB of the Central Excise Act, 1944 are applicable even in cases which are

covered under notification no. 33/99 dated 08-07-1999. This judgment, as it currently holds the field, removes any ambiguity in respect of applicability

of Section 11B and 11BB of the Central Excise Act, 1944 in respect of cases falling under the notification no. 33/99 dated 08-07-1999. In view of that

matter the judgment referred to by the learned standing counsel will not come to the aid of the Department/Revenue.

29. In view of the judgment of the Amalgamated Plantations (P) Limited (Spura), as discussed above, this Court held that interest is payable on

delayed refunds on excise duty and the same is equally applicable in respect of refunds made under notification no. 33/99 dated 08-07-1999. Although

as submitted by the learned standing counsel, the question of law has been kept open while dismissing the SLP preferred by the Revenue on the

ground of limitation, the Revenue even in the present proceeding did not refer to the BoardÃ¢â‚¬â„¢s Circular dated 19-12-2002 and 08-12-2006 which

according to the Revenue was not considered by this Court while rendering the judgment in the case of Amalgamated Plantations (P) Limited vide

judgment and order dated 08-11-2012. In the absence of any such pleadings and submissions made before this Court to substantiate such claim it is not

required to embark on any interpretation in respect of BoardÃ¢â‚¬â„¢s said Circular vis-Ãƒ -vis the applicability of the present provision of Section 11B and

Section 11 BB of the Central Excise Act in respect of refunds made in terms of notification no. 33/99 dated 08-07-1999. Mere bald and omnibus

submissions of the respondents that the petitioners are not entitled to interest on delayed refund on Excise Duty cannot be sustained. Since the

Revenue has not been able to refer to any order of this Court and/or of the Apex Court taking a contra view to that taken by this Court in case of

Amalgamated Plantations Limited, this judgment is binding precedent and I respectfully concur with the findings. The BoardÃ¢â‚¬â„¢s Circular cannot

alter the position and ascribe any contrary view which will be in conflict with the Judicial Pronouncements, in view of the law declared in

Amalgamated Plantations (P) Limited. It will not be open to this Court to give liberty to the Revenue to disregard a judgment rendered by the

jurisdictional High Court and instead enforce a Departmental Circular. Accordingly, it is held that the petitioners are entitled to interest on delayed

refund as claimed and as held in the judgment of the Amalgamated Plantations (P) Limited. The impugned order dated 31-12-2018 is set aside and

quashed and the Revenue is directed to examine the claim of interest on delayed refund as agitated by the petitioners and after due calculation release

the claim of interest on delayed refund.

30. The entire excise shall be completed within a period of 60 days from the receipt of the certified copy of this order by the Revenue.

31. In view of the discussion above, this writ petition is allowed. No order as to cost.