



सीमाशुल्क (अपील) आयुक्तका कार्यालय, अहमदाबाद

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD

चौथी मंजिल 4th Floor, हडको बिल्डिंग HUDCO Building, ईश्वर भुवन रोड Ishwar Bhuvan Road,

नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009.

दूरभाष क्रमांक Tel. No. 079-26589281

DIN-20250671MN000000D8C5

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| क | फाइल संख्या FILE NO. | S/49-69/CUS/AHD/2024-25 |
| ख | अपीलआदेश संख्या ORDER-IN-APPEAL No. (सीमाशुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत) (UNDER SECTION 128A OF THE CUSTOMS ACT, 1962): | AHD-CUSTM-000-APP-71-25-26 |
| ग | पारितकर्ता PASSED BY | SHRI AMIT GUPTA Commissioner of Customs (Appeals), AHMEDABAD |
| घ | दिनांक DATE | 11.06.2025 |
| ङ | संघर्षकर्ता अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER - IN - ORIGINAL NO. | Order – In – Original No. 08/AC/DAP/APOLLO/ INT.REFUND/2023-24 dated 26.06.2024 passed by the Assistant Commissioner of Customs, ICD-Dashrath, Vadodara. |
| ङ | अपीलआदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON: | 11.06.2025 |
| ङ | अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT: | M/s. Apollo Tyres Ltd., Village Limda, Taluka Waghdia, Dist. Vadodara. |
| 1. | यह प्रति उस व्यक्ति के निजी उपयोग के लिए मुफ्त में दी जाती है जिनके नाम यह जारी किया गया है। This copy is granted free of cost for the private use of the person to whom it is issued. | |
| 2. | सीमाशुल्क अधिनियम 1962 की धारा 129 डी डी (1) (यथा संशोधित) के अधीन निम्नलिखित श्रेणियों के मामलों के सम्बन्ध में कोई व्यक्ति इस आदेश से अपने को आहत महसूस करता हो तो इस आदेश की प्राप्ति की तारीख से 3 महीने के अंदर अपर सचिव/संयुक्त सचिव (आवेदन संशोधन), वित्त मंत्रालय, (राजस्व विभाग) संसद मार्ग, नई दिल्ली को पुनरीक्षण आवेदन प्रस्तुत कर सकते हैं। Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order. | |
| | निम्नलिखित सम्बन्धित आदेश/Order relating to : | |

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| (क) | बैगेज के रूप में आयातित कोई माल. | | | | |
| (a) | any goods imported on baggage. | | | | |
| (ख) | भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी हो. | | | | |
| (b) | any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination. | | | | |
| (ग) | सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों के तहत शुल्क वापसी की अदायगी. | | | | |
| (c) | Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder. | | | | |
| 3. | <p>पुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उस के साथ निम्नलिखित कागजात संलग्न होने चाहिए :</p> <p>The revision application should be in such form and shall be verified in such manner as may be specified in the relevant rules and should be accompanied by :</p> <p>(क) कोर्ट फी एक्ट, 1870 के मद सं.6 अनुसूची 1 के अधीन निर्धारित किए गए अनुसार इस आदेश की 4 प्रतियां, जिसकी एक प्रति में पचास पैसे की न्यायालय शुल्क टिकट लगा होना चाहिए.</p> <p>(a) 4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule 1 item 6 of the Court Fee Act, 1870.</p> <p>(ख) सम्बद्ध दस्तावेजों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो</p> <p>(b) 4 copies of the Order - In - Original, in addition to relevant documents, if any</p> <p>(ग) पुनरीक्षण के लिए आवेदन की 4 प्रतियां</p> <p>(c) 4 copies of the Application for Revision.</p> <p>(घ) पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथासंशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मर्दों के शीर्षके अधीन आता है में रु. 200/- (रुपए दो सौ मात्र) या रु.1000/- (रुपए एक हजार मात्र), जैसा भी मामला हो से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दोप्रतियां, यदि शुल्क, मांगा गया व्याज, लगाया गया दंड की राशि और रुपए एक लाख या उससे कम हो तो ऐसे फीस के रूप में रु.200/- और यदि एक लाख से अधिक हो तो फीस के रूप में रु.1000/-</p> <p>(d) The duplicate copy of the T.R.6 challan evidencing payment of Rs. 200/- (Rupees two Hundred only) or Rs. 1,000/- (Rupees one thousand only) as the case may be, under the Head of other receipts, fees, fines, forfeitures and Miscellaneous Items being the fee prescribed in the Customs Act, 1962 (as amended) for filing a Revision Application. If the amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs. 200/- and if it is more than one lakh rupees, the fee is Rs. 1000/-.</p> | | | | |
| 4. | मद सं. 2 के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं | | | | |
| | In respect of cases other than those mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address : | | | | |
| | <table border="1"> <tr> <td>सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ</td> <td>Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench</td> </tr> <tr> <td>दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016</td> <td>2nd Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016</td> </tr> </table> | सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ | Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench | दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016 | 2 nd Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016 |
| सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ | Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench | | | | |
| दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016 | 2 nd Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016 | | | | |
| 5. | सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए- | | | | |
| | Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of - | | | | |

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| (क) | अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हजार रुपए. |
| (a) | where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees; |
| (ख) | अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए से अधिक हो लेकिन रूपये पचास लाख से अधिक न हो तो: पांच हजार रुपए |
| (b) | where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees; |
| (ग) | अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो: दस हजार रुपए. |
| (c) | where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees |
| (घ) | इस आदेश के विरुद्ध अधिकरण के सामने मांगे गए शुल्क के 10 % अदा करने पर जहां शुल्क या शुल्क एवं दंड विवाद में हैं या दंड के 10 % अदा करने पर जहां केवल दंड विवाद में हैं अपील रखा जाएगा। |
| (d) | An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty alone is in dispute. |
| 6. | उक्त अधिनियम की धारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए किए गए अपील: - अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रूपये पाँच सौ का शुल्क भी संलग्न होने चाहिए। Under section 129 (a) of the said Act, every application made before the Appellate Tribunal- (a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or (b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees. |



ORDER-IN-APPEAL

M/s. Apollo Tyres Ltd., Village Limda, Taluka Waghodia, Dist. Vadodara (hereinafter referred to as 'the appellant') has filed the present appeal against Order-In-Original No. 08/AC/DAP/APOLLO/INT.REFUND/2023-24 dated 26.04.2024 (hereinafter referred to as 'the impugned order') passed by the Assistant Commissioner of Customs, ICD-Dashrath, Vadodara (hereinafter referred to as 'the adjudicating authority').

2. Facts of the case, in brief, are that the appellant had re-exported the goods viz. 'Polybutadiene Rubber PBR 01' under the claim of 98% drawback under the provisions of Section 74 of the Customs Act, 1962. The goods were allowed to be re-exported vide manual Shipping Bill No. 01/13/DBK dated 31.10.2013. However, due to litigation in this matter, the amount of drawback of Rs.45,58,282/- under Section 74 has been sanctioned to the appellant, without interest, vide Order No. DKT/AC/ICD/01/REFUND/Apollo/2022-23 dated 22.06.2022 issued by the adjudicating authority.

3. Being aggrieved regarding non-payment of interest by Customs Department under Section 75A of the Customs Act, 1962, earlier, the appellant had filed an appeal No. S/29-240/CUS/AHD/2022-23 with this office. The said appeal was decided vide Order-In-Appeal No. AHD-CUSTM-000-APP-456-23-24 dated 22.02.2024 under which my predecessor Commissioner (Appeals) had remanded the matter to the adjudicating authority with directions to issue a speaking order.

4. In pursuant to the said O.I.A. dated 22.02.2024, the adjudicating authority has passed the impugned order dated 26.04.2024, in which facts of the case have been reiterated. As regards the applicability of interest under Section 75A, the adjudicating authority has merely recorded findings as under:

"26. Respectfully following the directions of the Appellant Authority as mentioned above, I have carefully examined the available facts, documents, submissions made by the importer as discussed in foregoing paras and I am of the considered view that the claim of interest on drawback amount paid to the importer and applicability of Section 75A of the Customs Act, 1962 cannot be admissible in light of the facts and circumstances of the case. Hence, the importer is not entitled for getting interest under Section 75A of the Customs Act, 1962 and their claim for interest on drawback amount sanctioned to the importer vide Order-in-Original No. DKT/AC/01/REFUND/ Apollo/2022-23 dated 22.06.2022, is liable to be rejected."

5. With above findings, the adjudicating authority has rejected the claim of granting interest on drawback under Section 75A. Being aggrieved, the appellant has filed the present appeal on 03.06.2024. As the appeal has been filed against rejection of claim for interest on delayed drawback, pre-deposit under the provisions of Section 129E of the Customs Act, 1962, does not require. In the Form C.A.-1, the date of communication of the Order-In-Original dated 26.04.2024

has been shown as 29.04.2024. Thus, the appeal has been filed within normal period of 60 days, as stipulated under Section 128(1) of the Customs Act, 1962 and so, it has been taken up for disposal on merits.

The appellant has, inter-alia, raised various contentions in the Grounds of Appeal, which are as under:

6. Section 74 of the Customs Act provides drawback on re-export of duty paid goods and Section 75A of the Customs Act provides for interest on delay of issuance of drawback beyond one month from the date of the application. The relevant portion is reproduced as under:

Section 74 - Drawback allowable on re-export of duty-paid goods. -

(1) *When any goods capable of being easily identified which have been imported into India and upon which any duty has been paid on importation,*

- (i) *are entered for export and the proper officer makes an order permitting clearance and loading of the goods for exportation under section 51; or*
- (ii) *are to be exported as baggage and the owner of such baggage, for the purpose of clearing it, makes a declaration of its contents to the proper officer under section 77 (which declaration shall be deemed to be an entry for export for the purposes of this section) and such officer makes an order permitting clearance of the goods for exportation; or*
- (iii) *are entered for export by post under [clause (a) of section 84] and the proper officer makes an order permitting clearance of the goods for exportation, ninety-eight per cent of such duty shall, except as otherwise hereinafter provided, be re-paid as drawback, if -*
 - (a) *the goods are identified to the satisfaction of the [Assistant Commissioner of Customs or Deputy Commissioner of Customs] as the goods which were imported; and*
 - (b) *the goods are entered for export within two years from the date of payment of duty on the importation thereof:*



Provided that in any particular case the aforesaid period of two years may, on sufficient cause being shown, be extended by the Board by such further period as it may deem fit.

Section 75A. Interest on drawback. -

(1) *Where any drawback payable to a claimant under section 74 or section 75 is not paid within a period of one month from the date of filing a claim for payment of such drawback, there shall be paid to that claimant in addition to the amount of drawback, interest at the rate fixed under section 27A from the date after the expiry of the said period of one month till the date of payment of such drawback:*

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On perusal of the aforementioned provisions, it clearly transpires that if the goods are being easily identifiable and are re-exported within two years from the date of import, they shall be eligible to drawback of 98% of duty paid at the time of import. Further, if the payable drawback is not paid within a period of one month from the date of filing a claim for payment, the claimant is eligible to interest in addition to the amount of drawback, at the rate fixed in terms of Section 27A. Thus, if the drawback is found to be payable in terms of Section 74 of the Customs Act, the claimant of drawback would be entitled to interest of such drawback amount if the same is not issued within one month the date of application.

7. The Appellant submits that the application was filed on May 26, 2014 with all requisite documents, initially the application was disallowed by the learned Assistant Commissioner. However, the decision was dismissed by the Commissioner (Appeals) on perusal of documentary evidence and irrefutable facts and the appeal was allowed in favour of Apollo Tyres Ltd. with consequential relief. However, department approached the Revisional Authority only with regard to the point of jurisdiction of Assistant Commissioner to pass the order and sought the matter to be remanded back to Commissioner for fresh adjudication. In this regard, the Learned Revisional Authority correctly observed that the matter is not required to be remanded back and the appeal is devoid of any merits. Accordingly, dismissed the appeal.

8. In this regard, the Appellant submits that the delay in the present matter is only owing to the dispute of the department which was struck down at the later stages. Accordingly, it is submitted that the Appellant is entitled to interest on such refund owing to the undue delay caused by the department. In this regard, the Appellant relies on the decision of Supreme Court in the case of **Ranbaxy Laboratories Ltd. v. Union of India [2011 (273) E.L.T. 3 (S.C.)]**.

9. The Appellant also relies on the decision of the Tribunal in **Franktex Enterprises (P) Ltd. Vs. Commissioner of Customs (Port), Calcutta [2002 (146) ELT 705 (Tri. Kolkata)]**, the relevant extract of the decisions is reproduced as under:

2. *Our attention has been drawn to the provisions of Section 75A of the Customs Act, 1962 which is to the effect that if draw back has not been paid within a period of two months from the date of filing of the claim, claimant shall be eligible to the interest from the date of expiry of the said period till the date of payment of such draw back at the rate fixed under Section 27A. Shri Mehta said that the rates fixed under section 27A is 15% per annum in terms of Notfn. No. 32/95-Cus. (N.T.), dt. 26-5-95. As such he submits that the applicants are entitled to the interest in terms of the provisions of Section 75A read with Section 27A and the notification issued thereunder.*

3. *In view of the foregoing we direct the Commissioner to quantify the amount of interest in terms of the provisions of Section 75A read with Section 27A and at the rates which may be fixed by the Govt. of India by notifications issued under Section 27A. Miscellaneous application is disposed of in above terms.*

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10. Further, the Appellant also relies on decision of Madras High Court dated 27.08.2015 in the case of Karur K.C.P. Packaging's Limited Vs. The Commissioner of Customs, Tuticorin [W.P.(MD) No.15003 of 2015]:

5. A mere perusal of the above Section goes to show that where any drawback payable to the claimant is not paid within a period of one month from the date of filing a claim for payment of such drawback interest at the rate fixed under Section 27-A from the date after the expiry of the said period of one month is payable to the petitioner. Therefore, when it is made clear that the petitioner is entitled to claim interest, as per Section 75-A and further notification with regard to quantum of interest and also as per Notification Customs No.18/2011-Customs (N.T), 1st March 2011, 18% interest per annum having already fixed by the Central Government is hereby fixed.

6. In the result, the Writ Petition is allowed and the 3rd respondent is hereby directed to pay the interest at the rate of 18% on the sanctioned and paid duty drawback claim amount entitled by the petitioner for the period from 18.02.2010 to 24.09.2010, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

11. Further, the Appellant relies on decision of Madras High Court in the writ petition pertaining to Global United Shipping India (P) Ltd. vs. Assistant Commissioner of Customs (Refund), Rajaji Salai [MANU/TN/9354/2019] wherein it was observed that merely because petitioner has not succeeded before Original and Appellate Authority, it does not mean that date of his application for refund gets altered as one in pursuant to order of CESTAT and accordingly, it was held that interest is applicable from the date of expiry three months from the date application of refund.

Grounds of Appeal regarding interest on delayed refund is to be issued automatically

12. Appellant submits that it is a settled position that any amount retained by the department which was not authorized to be retained by the constitution of India, Interest is payable for the period the amount is withheld by the department.

13. Addressing the issue of interest on refund, CBIC vide Circular No. 670/61/2002-CX, dated October 1, 2002 ("the Circular") issued clarification on non-payment of interest in refund/rebate cases which are sanctioned beyond three months of filing, by stating that they provision of 11BB [*which are parametria to Section 75A of the Customs Act*], are automatically attracted after expiry of three months from the date application. The relevant portion of the circular is reproduced herein below:

"2. In this connection, Board would like to stress that the provisions of section 11BB of Central Excise Act, 1944 are attracted automatically for any refund sanctioned beyond a period of three months. The jurisdictional Central Excise Officers are not required to wait for instructions from any superior officers or to look for instructions in the orders of higher appellate authority for grant of interest. Simultaneously, Board would like to draw attention to Circular No. 398/31/98-CX., dated 2-6-98 [1998 (100) E.L.T. T16] wherein Board has directed that responsibility should be fixed for not disposing of the refund/rebate claims within three months from the date of receipt of application. Accordingly, jurisdictional Commissioners may devise a suitable monitoring mechanism to ensure timely disposal of refund/rebate claims. Whereas all necessary action should be taken to ensure that no interest liability is attracted, should the liability arise, the legal provision for the payment of interest should be scrupulously followed."

14. In this regard, the appellant submits that ever since Section 11BB & 75A were inserted in the Act with effect from May 26, 1995, the department has maintained a consistent stand about its interpretation. Explaining the intent and the manner in which it is to be implemented, the Circular clearly states that the relevant date in this regard is the expiry of three months from the date of receipt of the application under Section 11B (1) of the Act.

15. In this regard, the appellant relies on the decision of the High Court in the case of Siddhant Chemicals Vs. Union of India and Others [2014-TIOL-676-HC-ALL-CX] wherein the hon'ble High Court relying on the circular held that interest on delayed refund is not discretionary, the payment of interest is statutory and automatic.

16. Additionally, the appellant also places reliance on recent decision of Bombay High Court in the case of Qualcomm India Pvt Ltd Vs. Union of India and others [2021-TIOL-1170-HC-MUM-ST] wherein it was held that if the refund is not granted within three months from the date of application, the assessee would be entitled to interest on such delayed refund as a matter of right. Additionally, the Hon'ble while dismissing the ground of the revenue that the delay was not intentional, held that once there is delay in refund, payment of interest becomes automatic and non-granting interest would amount to failure in discharge of a statutory duty.

17. In view of the above, the appellant submitted that they are eligible to interest on drawback refund, from June 26, 2014 (*1 month from date of the refund application*) to June 26, 2022 (*the date on which cheque was issued to ATL*). Accordingly, the applicable interest calculated @ 6% as under, sums up to be INR 21,89,474/-, as under:

Ans

| | | |
|---|------|-------------|
| Drawback refund Amount | (Rs) | 45,58,282 |
| Date of filing Drawback refund | | 26-May-2014 |
| Expiry of 1 month from Drawback filing date | A | 26-Jun-2014 |
| Date of actual payment of drawback refund | B | 26-Jun-2022 |
| No of days delay | B-A | 2922 |
| Notified Interest rate | | 6% |
| Interest amount to be paid | (Rs) | 21,89,474 |

Personal Hearing

18. Personal Hearing in this matter was held in virtual mode, i.e. through video conference, on 29.05.2025, which was attended by Shri Himanshu Chawla, Group Manager (Indirect Taxation) of the appellant company. He reiterated the written submissions made at the time of filing of appeal.

Findings:

19. I have carefully gone through the impugned order, appeal memorandum and oral submissions made on behalf of the appellant during course of hearing. The issue to be decided in the case is whether the impugned order dated 26.04.2024, which is passed in remand proceedings in terms of directions given by the then Commissioner of Customs (Appeals), Ahmedabad, vide Order-In-Appeal No. AHD-CUSTM-000-APP-456-23-24 dated 22.02.2024, is legal and proper or not.

20.* As mentioned in the said Order-In-Appeal dated 22.02.2024, the matter was remanded to the adjudicating authority with directions to issue a speaking order. A 'speaking order' is a reasoned decision that explains the rationale behind a conclusion reached by an authority, particularly in quasi-judicial contexts. It is essential for ensuring transparency and accountability in administrative actions. Whereas, in the present case, no rationale has been discussed in the impugned order for not granting of interest under Section 75A to the appellant. In my view, the impugned order dated 26.04.2024 cannot be termed as 'speaking order' inasmuch as it does not discuss any reasons for rejecting the claim of the appellant to grant interest on delayed payment of drawback. As the adjudicating authority failed to follow the directions of issuing a speaking order, as given in the Order-In-Appeal dated 22.02.2024, the impugned order is liable to be set aside.

21. It is undisputed that the appellant had filed a claim for drawback under Section 74 for the Shipping Bill No. 01 dated 31.10.2013 vide their letter Ref No. BRC/E/FCL/962 dated 26.05.2014, which has been received in the office of the Assistant Commissioner of Customs, ICD-Dashrath, on 27.05.2014. Whereas, the drawback of Rs.45,58,282/- has been sanctioned to the appellant, without interest, vide Order No. DKT/AC/ICD/01/REFUND/Apollo/2022-23 dated 22.06.2022. Further, the delay in sanction of drawback was not on account of any lapse on part of the appellant. Therefore, I am of the view that the appellant was entitled for interest under Section 75A for the period starting from one month from the date of filing a claim, till the date of payment of drawback. The appellant, vide

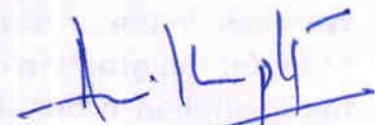
letter dated 27.03.2024, already submitted quantification of Rs.21,89,474/- towards interest to the office of the adjudicating authority, which is reproduced hereinabove. No discrepancy in respect of the said quantification has been mentioned in the impugned order. However, I find that there is a mistake of 1 day in calculation of delay. The appellant has mentioned the 'Date of filing of Drawback refund' as '26-May-2014'; whereas, I find that the said Drawback Claim dated 26-May-2014 has been submitted by the appellant on 27-May-2014. Therefore, the correct amount of interest payable under Section 75A has been recalculated as under:

| | | |
|---|-------|--------------|
| Drawback Amount | (Rs.) | 45,58,282 |
| Date of filing Drawback claim | | 27-May-2014 |
| Expiry of 1 month from Drawback filing date | A | 27-June-2014 |
| Date of actual payment of drawback amount | B | 26-June-2022 |
| No. of days delay | B-A | 2921 |
| Notified Interest rate | | 6% |
| Interest amount to be paid u/s 75A | (Rs.) | 21,88,725 |

22. In view of the above discussion, I agree with the contentions of the appellant that they are entitled to get interest under Section 75A on delayed payment of drawback under Section 74 of the Customs Act, 1962.

Order

23. In view of the above findings, set aside the impugned order and allow the appeal by holding that the appellant is entitled for interest of Rs.21,88,725/- payable under Section 75A of the Customs Act, 1962, on the goods re-exported vide Shipping Bill No. 01/13/DBK dated 31.10.2013.



(Amit Gupta)

Commissioner (Appeals),
Customs, Ahmedabad

F. No. S/49-69/CUS/AHD/2024-25

Date: 11.06.2025

By E-mail (As per Section 153(1)(c) of the Customs Act, 1962)

To

M/s. Apollo Tyres Ltd.,
Village Limda, Taluka Waghdia,
Dist. Vadodara.
(Email: himanshu.Chawla@apollotyres.com , info.apollo@apollotyres.com)



Copy to:

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad. (email: ccoahm-guj@nic.in)
2. The Principal Commissioner of Customs, Custom House, Ahmedabad. (email: cus-ahmd-guj@nic.in ; rra-customsahd@gov.in)
3. The Assistant Commissioner of Customs, ICD-Dashrath, Vadodara. (email: icdcustoms-dashrath@gov.in)
4. Guard File.

* * * * *

