

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 3460 OF 2026

Empire Industries Limited)
Empire House, 414,)
Senapathi Bapat Marg,)
Post Box No. 16330,)
Lower Parel (West),)
Mumbai 400 013.)...Petitioner
)
Versus)
)
1. Union of India,)
through its Secretary,)
Ministry of Finance,)
Department of Revenue,)
North Block, New Delhi – 110 001.)
)
2. The Commissioner of CGST,)
Mumbai Central Commissionerate,)
10th Floor, Lotus Info Centre,)
372, Parel Station Road,)
Off Elphinstone Bridge, Parel (East))
Mumbai 400 012.)
)
3. The Assistant Commissioner Division – III,)
CGST & CX, Mumbai.)
8th Floor, Piramal Chamber,)
Jijibhoy Lane, Lalbaug Parel,)
Mumbai 400 012.)...Respondents

Mr. Jas Sanghavi for the Petitioner.

Mr. Satyaprakash Sharma a/w Ms. Kavita Shukla, Ms. Vaishali Malekar & Mr. Gaurav Gupta for the Respondent Nos.1 to 3.

CORAM : M. S. KARNIK &
SANDESH D. PATIL JJ.
RESERVED ON : 2nd SEPTEMBER, 2026
PRONOUNCED ON : 7th SEPTEMBER, 2026

JUDGMENT (PER SANDESH D. PATIL, J.)

1. The petitioner is challenging the order-in-Original dated 24th March, 2026 passed by the respondent No. 3 to the extent, it denies statutory interest, payable under Section 11BB of the Central Excise Act, 1944 r/w Section 83 of Chapter V of Finance Act, 1994, after the expiry of three months from the date of refund application from 20th August, 2015 till the date, the aforesaid amount of Rs. 53,05,173/- was paid to the petitioner on 23rd June, 2026.

2. The petitioner contends that in the Judgment of ***Ranbaxy Laboratories Ltd Vs. The Union of India***¹ and other binding

¹ 2011 (273) E.L.T. 3 SC

decisions of this court, it was held that the interest is payable from the expiry of three months from the date of filing of the application till the date of refund under Section 11B of the Excise Act and not from the date of favourable order of the Appellate Tribunal. It is further submitted that the respondent No.3 has wrongly construed the communication dated 5th January, 2026 as refund claim to deny interest to the petitioner.

3. The learned Counsel for the petitioner contended that the original refund application under Section 11B of the Excise Act r/w Section 83 of the Finance Act was filed on 20th May, 2015. The same claim was ultimately allowed by the Appellate Tribunal vide its order dated 8th December, 2025. Thus, the said communication dated 5th January, 2026 was only a continuation/reminder of original claim filed on 20th May, 2015 and could not be construed as refund claim under Section 11B of the Excise Act. The petitioner lastly claimed that the respondent should grant/pay interest under Section 11BB of the Excise Act from the expiry of three months from the date of

application i.e. from 20th August, 2015, till the date of actual refund i.e. 23rd June, 2026.

4. The petitioner has relied upon a compilation of judgments to buttress their contention. The learned Counsel appearing for the respondent/Revenue stated that the refund claim of Rs.53,05,173/- was paid by the petitioner under protest along with interest and they had submitted copies of ST – return amounting to Rs.53,05,173/-. He relied upon provisions of Section 11B of the Central Excise Act, 1944 as made applicable to Chapter V of the Finance Act, 1994 vide Section 83.

5. He submitted that the refund claim arises from a case where duty becomes refundable as a consequence of CESTAT order issued on 8th December, 2025. The respondent further relied upon Section 11BB of the Central Excise Act, 1944. He further stated that the refund claim against the subject order has been filed by the Assessee vide their office letter dated 5th January, 2026. According to

him, as per Section 11BB of the Central Excise Act, 1944 the interest is payable only in cases where the refund amount is not paid within a period of three months from the date of order of refund. He therefore, prayed for dismissal of the petition.

6. We have gone through the contentions raised by the learned Counsel appearing for both the sides. We have also considered the purport of Section 11B and Section 11BB of the Central Excise Act, 1944. We have further also considered the provisions of Section 83 of the Finance Act, 1994.

7. This Court in the matter of *Ranbaxy Laboratories Ltd (supra)* had occasion to consider some similar situation. This Court, after analyzing the provisions of Finance Act as well as the Central Excise Act had observed as under :

“9. It is manifest from the afore-extracted provisions that Section 11BB of the Act comes into play only after an order for refund has been made under Section 11B of the Act. Section 11BB of the Act lays down that in case any duty paid is found refundable and if the

duty is not refunded within a period of three months from the date of receipt of the application to be submitted under sub-section (1) of Section 11B of the Act, then the applicant shall be paid interest at such rate, as may be fixed by the Central Government, on expiry of a period of three months from the date of receipt of the application. The Explanation appearing below Proviso to Section 11BB introduces a deeming fiction that where the order for refund of duty is not made by the Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise but by an Appellate Authority or the Court, then for the purpose of this Section the order made by such higher Appellate Authority or by the Court shall be deemed to be an order made under sub-section (2) of Section 11B of the Act. It is clear that the Explanation has nothing to do with the postponement of the date from which interest becomes payable under Section 11BB of the Act. Manifestly, interest under Section 11BB of the Act becomes payable, if on an expiry of a period of three months from the date of receipt of the application for refund, the amount claimed is still not refunded. Thus, the only interpretation of Section 11BB that can be arrived at is that interest under the said Section becomes payable on the expiry of a period of three months from the date of receipt of the application under sub-section (1) of Section 11B of the Act and that the said Explanation does not have any bearing or connection with the date from which interest under Section 11BB of the Act becomes payable.

10.

11.

12. *Thus, ever since Section 11BB was inserted in the Act with effect from 26th May 1995, the department has maintained a consistent stand about its interpretation. Explaining the intent, import and the manner in which it is to be implemented, the Circulars clearly state 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.”*

8. In view of the binding decision of the Hon'ble Supreme Court in the matter of ***Ranbaxy Laboratories Ltd (supra)***, we have reached to a conclusion that there is substance in the contention of the petitioner. In this case also the interest payable was from expiry of three months from the date of filing of the application till the date of refund under Section 11B of the Excise Act and not from the date of favourable order passed by the Appellate Tribunal i.e. on 8th December, 2025. The respondent No.3 committed a serious error in construing that the communication dated 5th January, 2026 was a refund claim. The original refund application under Section 11B of the Excise Act r/w Section 83 of the Finance Act was filed on 20th May, 2015. The claim was ultimately allowed by the Appellant

Tribunal on 8th December, 2025. Thus, the communication dated 5th January, 2026 was only a continuation/reminder of the original claim filed by the petitioner on 20th May, 2015 and could not be construed as a refund claim under Section 11B of the Excise Act.

9. Having made the aforesaid observations, we are inclined to allow this petition. Hence, the following order.

ORDER

(i) The petition is allowed.

(ii) The order dated 24th March, 2026 passed by the respondent No.3 to the extent it denied statutory interest on the refund amount of Rs.53,05,173/- sanctioned to the petitioner, is quashed and set aside.

(iii) The respondent No. 3 is directed to refund an amount of Rs.53,05,173/- alongwith statutory interest thereon from 20th August, 2015, till the date of actual refund within a period of eight weeks from the date of passing of this order.

10. With the aforesaid observations, petition is disposed of.

(SANDESH D. PATIL, J.)

(M. S. KARNIK, J.)