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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 9084/2017

J B METAL INDUSTRIES PVT. LTD. THROUGH: ITS DIRECTOR ..... Petitioner

Through: Mr.Jitendra Singh and Ms.Vidushi Shubham, Advocates.

versus

COMMISSIONER OF CENTRAL EXCISE, DELHI-II & ANR. ..... Respondents

Through: Mr.Sanjeev Narula, Sr.Standing Counsel with Mr.Abhishek and Mr. Shravan Kumar Shukla, Advocates for R-1.
Mr.Satish Aggarwal, Sr. Standing Counsel with Mr.Vineet Sharma, Adv. for R-2.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE A. K. CHAWLA

O R D E R

% **18.09.2018**

The petitioner seeks a direction to the respondents to pay interest which accrued on the seized currency detained by them during the period between 21.9.2005 and 23.3.2017.

The officers of the Directorate General of Central Excise Intelligence carried out a search at the petitioner's manufacturing unit and seized Indian currency to the extent of Rs.23,15,000/- suspecting it to be sale proceeds of manufactured goods cleared clandestinely without paying duty. The cash seized was deposited in an interest bearing account held by the Directorate General of Central Excise. Investigation resulted in two separate show cause notices in 2006 and 2007 demanding duty. It had ultimately culminated in the order of confiscation. The order of the Joint Commissioner was affirmed in appeal by the Commissioner. Upon appeal, the Customs, Excise and Service Tax Appellate Tribunal, New Delhi by an order dated 28.10.2016 quashed the confiscation. Likewise, in another case pertaining to clandestine clearance without paying the duty resulted in petitioner's exoneration. Thereafter the petitioner approached the Authority for release of seized currency which was granted on 23.03.2017. The petitioner's request for interest, payable for the 12 years period, was however, declined. It therefore, approached this Court contending that in the circumstances of this case, given that the final orders of the CESTAT exonerated it completely from the duty liability, at least accrued interest ought to be released to it.

The Revenue had opposed the proceedings contending that the right to claim interest only can be from the date the CESTAT made its order, setting aside the concurrent finding of the lower authority, however, it does not deny that on, 21.9.2005 seized cash was kept in a fixed deposit account, with the Syndicate Bank, Defence HQ Branch, South Block. The interest earned on the fixed deposit (as on 17.9.2018), was Rs.26,87,863/-. This fact has been highlighted by the petitioner on account of the reply to the right to information query made by it, dated 23.04.2018.

On the previous date of hearing the counsel for the Revenue had sought time to obtain instructions as to whether the amount was indeed kept in a fixed deposit account during the period of time as alleged. Today a letter dated 17.9.2018 issued by the Assistant Director (Directorate General of GST Intelligence) has been shown which confirms that the said amount of Rs.26,87,863/- was available as interest. In view of the above discussion, the respondents are hereby directed to release the sum of Rs.26,87,863/- (denoting the accrued interest from the amount of Rs.23,15,000/- seized from the petitioner). The amount shall be paid to the petitioner within two weeks from today.

Petition is allowed.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

SEPTEMBER 18, 2018
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