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

Date of Order: 22.11.2023

+ **W.P.(C) 1772/2019**

BROADWAYS OVERSEAS LIMITED

..... Petitioner

Through: Mr. Tushar Jarwal, Mr Rahul Sateesha,
Mr Pranav Bansal and Mr Sangam
Agarwal, Advocates

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Ms Shiva Lakshmi, CGSC with Mr
Vishal Singh and Mr Madhav Bajaj,
Advocates for R-1 to 4

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

[Physical Hearing/Hybrid Hearing (as per request)]

TARA VITASTA GANJU, J.: (ORAL)

1. The present Petition has been filed seeking a refund of claims of Terminal Excise Duty along with applicable interest by the Respondent No. 3 under the Foreign Trade Policy, 2009-14 ['FTP'] for the following periods:

- (i) April 2011 to Sept 2011;
- (ii) Oct. 2011 to March 2012;
- (iii) July 2012 to Sept 2012; and
- (iv) Dec 2012 to March 2013

2. As was recorded by this Court in its Order dated 02.11.2023, the provision in relation to the Terminal Excise Duty have been struck down. Reference was made to a judgment passed by Division Bench of this Court



dated 01.05.2023 in **LPA 362/2019** titled as “**Union of India v Aurobindo Pharma Ltd**” and other connected matters, which relies on a judgment passed by the Supreme Court in **Sandoz Private Limited v. Union of India & Others, 2022 OnLine SC 10**.

3. In these circumstances, the payments made by the Petitioner for Terminal Excise Duty shall be refunded to the Petitioner in terms of the judgment in the Union of India case.

3.1 It is further directed that the interest @ 6% per annum be also granted in accordance with paragraph 58 of the said judgment, which is reproduced below:

“58.....

However, if TED has been paid in cash by the EOU, the EOU may get refund of that amount from Authority implementing the applicable FTP in cash with simple interest at the rate of 6% per annum for the delayed refund of duty (para 8.5.1) on condition that it would not pass on that benefit to the DTA supplier owing to such refund/rebate.”

4. The Petition and all pending Applications are disposed of in terms of the foregoing directions.

5. File be consigned to Record.

TARA VITASTA GANJU, J

NOVEMBER 22, 2023/g.joshi

[Click here to check corrigendum, if any](#)