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IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION [CUSTOMS]
ORIGINAL SIDE

CUSTA/5/2025
IA NO: GA/2/2025

COMMISSIONER OF CUSTOMS PREVENTIVE KOLKATA
VS
M/S RAYMOND APPAREL LIMITED

BEFORE :
THE HON'BLE THE CHIEF JUSTICE T.S SIVAGNANAM
-A N D-
HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)
DATE : 2nd August, 2025.

Appearance :
Mr. Uday Shankar Bhattacharyya, Adv.
Mr. Tapan Bhanja, Adv. …for appellant.

Mr. Rahul Tangri, Adv.
Mr. Shavit Betal, Adv. …for respondent.

The Court :- This appeal filed by the revenue is directed against the order dated 2.5.2024 passed by the Customs, Excise and Service Tax Appellate Tribunal, East Zonal Bench, Kolkata (Tribunal) in CUSTA/75201/2023.

The revenue has raised the following substantial questions of law for consideration:

"a. whether the refund application was required to be made within one year from the judgment and order of the Hon'ble Supreme Court of India in the case of M/s. SRF vs. Commissioner of Customs Chennai as per provision of sub-section 1B(b) of section 27 of the Customs Act, 1962?

b. Whether the refund application dated 09.09.2018 filed by the respondent is time barred and liable to be rejected?

c. Whether the impugned order dated 02.05.2024 passed by the learned Tribunal is contrary to the provision of section 27 of the

Customs Act, 1962 and also not sustainable in view of the Circular No.24/2004-Cus. Dated 18.03.2004 and the judgment and order of the Hon'ble Supreme Court of India passed in the case of ITC Ltd. vs. CCE, Kolkata-IV ?"

We have heard Mr. Uday Shankar Bhattacharyya, learned senior standing counsel assisted by Mr. Tapan Bhanja, learned advocate for the appellant and Mr. Rahul Tangri, learned advocate for the respondent.

The impugned order passed by the learned Tribunal is a common order in two appeals filed by the department challenging the orders passed by the Commissioner (Appeals), Kolkata in respect of the appeal filed by the department before the learned Tribunal in CUSTA/75200/2023. The revenue challenged the same by filing appeal before this Court in CUSTA/2/2025 and by judgment dated August 2, 2025, the appeal was dismissed. The operative portion of the judgment reads as follows:

> *"In the instant case, the respondent has not claimed interest from the initial date but they have claimed interest only after expiry of the period of 90 days from the date on which the application for refund was granted. Therefore, the said objection raised by the revenue would not arise in the instant case.*
>
> *For all the above reasons, we find that the learned Tribunal was fully justified in dismissing the revenue's appeal.*
>
> *For the above reasons, the appeal is dismissed and the substantial questions of law are answered against the revenue.*
>
> *The revenue is directed to effect refund in favour of the respondent together with interest as ordered within a period of three days from the date of receipt of the server copy of this order."*

The above decision will squarely apply to the case on hand except for the difference in number of bill of entries which is 96 and the amount of refund ordered is different. Except for the same, in all other respects the decision in CUSTA/2/2025 would squarely apply to the case on hand.

Thus, following the above decision, this appeal is also dismissed and the substantial questions of law are answered against the revenue.

The stay application (GA/2/2025) also stands dismissed.

The appellant/department is directed to effect interest as ordered within a period of six weeks from the date of receipt of the server copy of this order.

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(T.S. SIVAGNANAM, CJ)

(CHAITALI CHATTERJEE (DAS), J.)

SM/pkd