

Sayali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**SAYALI
DEEPAK
UPASANI**

WRIT PETITION NO. 369 OF 2025

Digitally signed by
SAYALI DEEPAK
UPASANI
Date: 2025.09.10
20:25:16 +0530

M/s. Manibhadra Impex Proprietary
concern of Shekhar Dineshkumar
Shah

... Petitioner

Versus

Assistant Commissioner of CGST and
C.Ex, Division V. Raigad
Commissionerate.

... Respondent

Mr. Rahul Thakar i/b Mr. C.B. Thakar, for Petitioner.

Mr. Siddharth Chandrashekhar i/b Mr. Suman Kumar Das, for
Respondents.

**CORAM : M.S. Sonak &
Advait M. Sethna, JJ.**

DATED : 09 September 2025

ORDER.:- (Per M.S. Sonak J.)

1. Heard the learned counsel for the parties.
2. Rule. The rule is made returnable immediately at the request and with the consent of the learned Counsel for the parties.
3. The Petitioner had instituted this Petition seeking balance refund to the extent of Rs.14,33,067/- together with

interest on the delayed refund. During the pendency of this Petition, the Respondents made a refund of Rs.14,33,067/- to the Petitioner. However, no interest was paid.

4. The Respondents have filed an affidavit justifying the non-payment of interest. The Petitioner disputes this justification. Mr. Chandrashekhhar points out that in this case, the refund was made within 60 days of the application for refund. However, the learned Counsel for the Respondents disputes this position by pointing out that the refund was made after the Petitioner was forced to file a Petition in this Court and after much delay. All these are contentious issues requiring the determination of factual questions.

5. To our query as to why the Petitioner cannot appeal the denial of interest, Mr. Thakar, learned Counsel for the Petitioner, submits that, yet, there is not even an order made declining interest to the Petitioner. He further submits that the Petitioner has not even been heard by the concerned Respondents on the aspect of interest.

6. Considering the submissions made, we think that the interest of justice would require that the Petitioner be allowed to represent on the issue of interest and that the concerned Respondents dispose of such representation in accordance with law after giving the Petitioner an opportunity to be heard. The concerned authority must decide on merits without being

influenced by the stand taken in the affidavit-in-reply filed in this Petition. Admittedly, such a stand was taken without hearing the Petitioner or considering the Petitioner's version of the matter.

7. Mr. Thakar states that such representation will be made within 10 days from today. We direct the concerned Respondents to dispose of such representation within two months of its receipt. The concerned Respondents must hear the Petitioner and pass a reasoned order and communicate the same.

8. If the Petitioner is aggrieved, the Petitioner will have the right to take out appropriate proceedings against the above decision.

9. All contentions of all parties on merits are left open because we are not examining such contentions on merits.

10. The Rule is disposed of in the above terms without any order as to costs.

11. All concerned are to act on an authenticated copy of this order.

(Advait M. Sethna, J)

(M.S. Sonak, J.)