

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

**SAYALI
DEEPAK
UPASANI**

Digitally signed by
SAYALI DEEPAK
UPASANI
Date: 2025.09.17
17:40:26 +0530

WRIT PETITION NO. 6608 OF 2025

Suresh Kumar Garg

... Petitioner

Versus

**Joint Commissioner of Customs and
Others**

... Respondents

AND

WRIT PETITION NO. 6773 OF 2025

Shiv Ganga Polypet LLP

... Petitioner

Versus

**Principal Commissioner of Custom
(NS-I) and Anr.**

... Respondents

Ms. Anshu Mehta, through VC, for Petitioner.

Mr. Akhil Krishna Maggu, through VC, for Petitioner.

**Mr. Satyaprakash Sharma with Niyati Mankad, through VC,
for Respondent Nos. 1 and 2.**

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

DATED : 16 September 2025

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

1. Heard learned Counsel for the parties.
2. Rule. The Rule is made returnable immediately at the request of and with the consent of the learned counsel for the parties.

3. Ms. Anshu Mehta withdraws her appearance on behalf of the Petitioners, and Mr. Akhil Krishna states that he will now appear for the Petitioners.

4. Accordingly, the request for withdrawal is granted.

5. In both these Petitions, the Petitioners challenge the order in original dated 15 February 2021 before the First Appellate Authority by making the requisite pre-deposit of Rs.25,000/-. This Appeal was dismissed by the First Appellate Authority by an order dated 13 June 2023.

6. Aggrieved, the Petitioners preferred a Second Appeal, which was allowed by the CESTAT on 05 August 2024.

7. Consequent upon the CESTAT allowing the Petitioners' Appeal, the Petitioners, by application dated 02 September 2024, requested the Authorities for a refund of the pre-deposit amount. Despite receiving this representation, to date, neither a refund has been made nor has the representation been responded to, forcing the Petitioners to institute these petitions.

8. Considering the above facts, no point would be served in simply issuing directions to the Respondents to dispose of the representation as suggested by Mr. Sharma, the learned Counsel for the Respondent. Mr. Sharma submitted that he has no instructions on whether the CESTAT order dated 05 August 2024 has been appealed or not.

9. Mr. Akhil Maggu relies on a circular dated 16 September 2014, which provides that where the Appeal is decided in favour of the party/assessee, they shall be entitled to a refund of the amount deposited along with interest at the prescribed rate from the date of deposit to the date of refund. Further, clause 5.3 provides that if the department contemplates an Appeal against the order of the Commissioner (Appeals) or the order of CESTAT, which is in favour of the Appellant, refund along with interest would still be payable unless such order is stayed by the competent Appellate Authority.

10. Here, no stay order is produced before us. In fact, there is nothing to show that an Appeal has been preferred against the CESTAT order.

11. Therefore, we direct the Respondents to refund the pre-deposit amount together with interest at the prescribed rate within four weeks from the date of uploading of this order, unless, in the meantime, the Respondents appeal the order dated 05 August 2024 and obtain any interim orders in such Appeal or proceedings. We clarify that mere filing of an Appeal or proceedings will not entitle the Respondents to withhold the refund with interest now directed by us.

12. It is only if the Appeal is filed and the stay order is obtained that our direction for refund with interest need not be complied with and shall be subject to further orders in such Appeal. Otherwise, the refund will have to be made with

interest within the timeline now indicated by us. If there is a delay, the principal commissioner must order an enquiry, fix responsibility, and recover the interest component from the official responsible.

13. The concerned Respondents must file a compliance report in this Court by 04 November 2025 so that the Petitioners are not once again forced to approach this Court. Considering the quantum of refund, we expect the concerned Respondents not to delay this matter and thereby force the Petitioners to once again approach this Court alleging contempt or non-compliance.

14. The rule in these two petitions is made absolute in the above terms without any order as to costs. Mr Sharma is requested to immediately communicate a copy of this order to the Respondents. All concerned must act on an authenticated copy of this order.

(Advait M. Sethna, J)

(M.S. Sonak, J.)