IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-06-2026

CORAM

THE HONOURABLE DR JUSTICE G. JAYACHANDRAN
AND
THE HONOURABLE MRS.JUSTICE N. MALA

C.M.A.No.2406 of 2008

The Commissioner of Customs(Air),
Aircargo Complex,
Meenambakkam,
Chennai-27

...Appellant

Vs

1.M/s GMMCO Ltd.,
No.6 G.S.T.Road,
St.Thomas Mount,
Chennai 600 016

2.The Customs,
Excise And Service Tax Appellate Tribunal,
South Zonal Bench,
Shastri Bhavan Annexe,
1st Floor No.26 Haddows Road,
Chennai 600 006

..Respondents

PRAYER

Civil Miscellaneous Appeal has been filed under Section 130 of the Customs Act, 1962, to set aside the final order passed by the Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Chennai in Order No.1511/07, dated 20.12.2007, and to allow the above Appeal.

For Appellant: Mr.Ranjana Jain for
M/s P.Rajkumar Jhabakh

For Respondent(s): Mr.V.Sankaranarayanan for R1
Tribunal for R2

JUDGMENT

(Judgment of the Court was made by Dr. G.Jayachandran, J.)

This Appeal is filed by the Revenue, being aggrieved by the Order passed by the Customs, Excise and Service Tax Appellate Tribunal in Final Order No.1511 of 2007 dated 20.12.2007.

2. The short Order, which is challenged in this Case, reads as below:-

> "Imports of engines and its parts by M/s GMMCO Ltd., Chennai from M/s Caterpillar Far East Ltd., were assessed with a loading of Extra Duty Deposit (EDD) pending final determination if the value of such imports was depressed due to any relationship between the supplier and GMMCO. Vide Final Order No.667 and 668/2000 dated 25.08.2000 of the Tribunal, the value declared by GMMCO was found to be acceptable for assessment. Department's appeal to the Apex Court against the Final Orders dated 25.08.2000(supra) was dismissed. EDD was however collected for the imports between 25.08.2000 and July 2001. Pursuant to the order of the Apex Court, GMMCO approached the department for refund of the EDD made during the above period. The same was not allowed as there was no proper claim as prescribed. In the impugned order, the Commissioner (Appeals) decided that once the CESTAT had decided that the declared value

was not depressed and had to be accepted EDD collected for imports from 25.08.2000 had to be refunded with interest. She found that the amount had been collected without legal sanction and that its refund was not governed by Section 27 of the Customs Act (the Act).

2.The instant appeal filed by the revenue seeks to vacate the impugned order. It is submitted that refunds could be granted only against claims made under Section 27 of the Act and that the respondents had not made any claim in terms of Section 27 as prescribed. Unless a claim was filed, admissibility of the same to the importer could not be examined. Moreover, the Commissioner(Appeals) had ordered grant of interest in excess of her competence and jurisdiction. The ld SDR reiterates the grounds of appeal. The ld Counsel for the respondents invites our attention to as SVB Circular dated 18.07.2001, advising the concerned to finalise assessment of imports of GMMCO in the light of the Apex Court's judgment. He submits that the extra amounts illegally collected had to be returned suo motu and that the impugned order deserves tobe sustained.

3.We have carefully studied the case records and considered the submissions. As rightly found by the Commissioner (Appeals), the respondents are eligible for refund of the excess amounts forcibly collected from them. The respondents had claimed refund of the excess amount which was rejected. The Act provides for grant of interest where there has been delay in sanctioning refund beyond three months of filing the claim in terms of Section 27A of the Act. The revenue's challenge to the impugned order is devoid of merits as regards the excess amount collected and interest in terms of Section 27A of the Act. Accordingly, we dismiss the appeal filed by the revenue and sustain the impugned order."

3. At the time of admission, the following Substantial Questions of Law were framed for consideration:-

(1)Whether any duty paid by the assessee in pursuance of an order of assessment can be refunded ignoring the statutory provisions of Section 27 of the Customs Act, 1962, by treating it as a deposit?

(2)Whether the duty paid by the assessee is a duty paid by him in pursuance of an order of assessment or a deposit?

(3)Whether the first respondent assessee is liable to satisfy the question of unjust enrichment while making a refund claim?

4. The reading of the impugned order clearly indicates that the Extra Duty Deposit (EDD) paid by the Assessee, which is found to have been collected without legal sanction, is bound to be returned both on the basis of common law principles as well as the statutory provisions. However, the appeal is filed by the Revenue on the ground that the duty paid by the importer cannot be refunded, since it is not deposited.

5.This Court, on considering the reasoning given by the Customs, Excise and Service Tax Appellate Tribunal, finds that the direction to the Department to refund the amount, which was deposited as Extra Duty Deposit (EDD) squarely falls under Section 27 of the Customs Act, 1962. Therefore, this Civil Miscellaneous Appeal is to be dismissed and substantial Questions of Laws are answered accordingly.

6. In the result, **this Civil Miscellaneous Appeal is dismissed.** No order as to costs.

(G.JAYACHANDRAN J.) **(N.MALA J.)**
11-06-2026

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No
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No.6 G.S.T.Road St Thomas Mount
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Tribunal South Zonal Bench Shastri
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