

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI.**

PRINCIPAL BENCH - COURT NO. II

Service Tax Appeal No. 51676 of 2022-SM

(Arising out of Order-in-Appeal No.Comm (A) CGST/2020/28 dated 31.12.2020 passed by the Commissioner (Appeals-II), Central Tax/Goods & Service Tax, Delhi]

M/s. Premium Real Estate Developers

B-4, KH No.1152/1154, Asola Farms,
Mehrauli,
New Delhi.

Appellant

VERSUS

**Commissioner of Central Goods & Service
Tax,**

2nd Floor, EIL Annexe Building,
Bhikaji Cama Place,
New Delhi.

Respondent

APPEARANCE:

Shri Akash Deep, Advocate for the appellant
Ms. Tamanna Alam, Authorised Representative for the respondent

CORAM:

HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)

FINAL ORDER NO.51077/2022

DATE OF HEARING/ DECISION :14.11.2022

ANIL CHOUDHARY:

Heard the parties.

2. The issue in this appeal relates to grant of proper interest under Section 35 FF of the Central Excise Act.

3. The brief facts are that pursuant to show cause notice dated 22.04.2010, whereby service tax demand was proposed of Rs.1,55,10,433/-, the said proposed demand was confirmed vide Order-in-Original dated 30.09.2013 with penalty.

4. The appellant preferred appeal before this Tribunal being Central Excise Appeal No.ST/50103-50104/2014. During the pendency of the appeal, the appellant made pre-deposit on 2.2.2015 of Rs.38,57,636/-.

5. This Tribunal allowed the appeal of the assessee vide Final Order No.53322-53323 of 2018 dated 27.11.2018 setting aside the demand and penalty with consequential benefits. Thereafter, the appellant requested for refund of the pre-deposit on 26.11.2019. By refund order dated 5.3.2020, the Adjudicating Authority granted refund of the principal plus interest @6% p.a. from the date of deposit (02.02.2015 upto the date of refund).

6. Aggrieved Revenue preferred appeal before the Commissioner (Appeals) against the grant of interest from the date of deposit instead of 3 months after the order of the Tribunal. By impugned order dated 31.12.2020, the Commissioner (Appeals) pleased to allow the appeal of the Revenue directing the Adjudicating Authority to recalculate the interest. Being aggrieved, the appellant /assessee is before this Tribunal.

7. The appellant also prays for grant of interest @12% per annum, as held by this Tribunal in **Parle Agro Ltd.**

8. Having considered the rival contentions, I find that the order of the Court below is contrary to the provisions of Section 35 FF. The said Section provides for grant of interest from the date of deposit till the date of grant of refund. Accordingly, this appeal is allowed. The impugned order-in-appeal is set aside. Further, this Tribunal allowed the interest @12% per annum, following the ruling of the Division Bench in the case of **Parle Agro Ltd.** The Adjudicating Authority is directed to grant differential interest from the date of deposit till the date of refund within a period of 60 days from the date of receipt of copy of this order.

[Order dictated & pronounced in open court]

(Anil Choudhary)
Member (Judicial)

Ckp.

