



2026:DHC:5398-DB



\$~

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

%

Order reserved on: 02.07.2026

Order pronounced on: 07.07.2026

Order uploaded on: 08.07.2026

+ SERTA 21/2026, CM APPL. 39872/2026, CM APPL. 39873/2026 & CM APPL. 39874/2026

M/S SEHER

.....Appellant

Through: Mr. Rajat Mittal, Mr. Priyanshu, Mr. Subham Kumar and Mr. Shivam Kamra, Advs.

versus

COMMISSIONER OF CENTRAL EXCISE & CGST, DELHI EAST

.....Respondents

Through: Ms. Anushree Narain, SSC with Mr. Naman Choula, Adv

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

HON'BLE MR. JUSTICE SHAIL JAIN

ORDER

ANIL KSHETARPAL, J.:

1. The present Appeal under Section 35G of the Central Excise Act, 1944 [hereinafter referred to as 'the Act'], read with Section 83 of the Finance Act, 1994, has been preferred by the Appellant assailing the Final Order No. 51603/2025 dated 17.10.2025 [hereinafter referred to as 'Impugned Order'] passed by the Customs, Excise and Service Tax Appellate Tribunal, Principal Bench, New Delhi [hereinafter referred to as 'the Tribunal'], whereby the Tribunal upheld the grant of interest at the rate of 6% per annum on the amount refunded to the Appellant pursuant to the setting aside of the service tax demand.

2. The controversy in the present Appeal lies within a narrow



compass. The refund of the amount deposited by the Appellant during the course of investigation is not in dispute. The sole issue which arises for consideration is whether, in the facts and circumstances of the present case, the Appellant is entitled to interest at a rate higher than 6% per annum on the refunded amount.

FACTUAL MATRIX:

3. In order to appreciate the controversy involved in the present Appeal, the relevant facts, in brief, are required to be noticed.

4. The Appellant is engaged in the provision of taxable services under the Finance Act, 1994 and was registered with the Service Tax Department. During the course of investigation conducted by the Department into the Appellant's service tax liability, the Appellant deposited an amount of Rs.30,54,449/- on 28.03.2012 under protest.

5. Subsequently, three show cause notices dated 03.08.2012, 02.04.2014 and 17.04.2015 were issued proposing recovery of service tax aggregating to Rs.1,19,21,936/- along with applicable interest and penalty. The proceedings culminated in Order-in-Original dated 31.05.2016, whereby the proposed demand was confirmed against the Appellant.

6. Aggrieved thereby, the Appellant preferred an appeal before the Tribunal. The Tribunal *vide* Final Order dated 13.06.2022 allowed the Appeal and set aside the demand of service tax along with the consequential interest and penalty.

7. Pursuant to the aforesaid order, the Appellant filed an application dated 17.01.2023 seeking refund of the amount of



Rs.30,54,449/- deposited during the course of investigation. The refund claim was sanctioned by the jurisdictional authority. Thereafter, *vide* Order-in-Original dated 24.05.2024, interest on the refunded amount was granted at the rate of 6% per annum.

8. Dissatisfied with the rate of interest so awarded, the Appellant preferred an appeal before the Commissioner (Appeals), contending that it was entitled to interest at the rate of 12% per annum on the refunded amount. The Commissioner (Appeals), by Order-in-Appeal dated 23.12.2024, rejected the Appellant's claim for interest at a higher rate.

9. The Appellant thereafter approached the Tribunal by filing Service Tax Appeal No. 50572/2025. By the Impugned Order dated 17.10.2025, the Tribunal dismissed the Appeal and affirmed the order passed by the Commissioner (Appeals), holding that the amount deposited during investigation was in the nature of a pre-deposit for the purposes of Section 35FF of the Act and that the interest payable thereon was governed by the said provision read with the applicable notification issued by the Central Government prescribing the rate of interest at 6% per annum.

10. Aggrieved thereby, the Appellant has preferred the present Appeal.

CONTENTIONS OF THE PARTIES:

11. Contentions of the Appellant:

11.1. It was submitted that the amount deposited by the Appellant during the course of investigation under protest was in the nature of a



revenue deposit and not a payment of duty. It was contended that upon the service tax demand having been set aside by the Tribunal, the Department ceased to have any authority in law to retain the said amount and, therefore, the Appellant became entitled not only to refund of the principal amount but also to payment of appropriate compensatory interest for the entire period during which its money remained with the Department.

11.2. It was further submitted that the authorities below have erred in restricting the interest to 6% per annum by mechanically applying Section 35FF of the Act and the notification issued thereunder, without appreciating that the Appellant had been deprived of the use of its money for nearly 12 years. It was submitted that constitutional courts have, in appropriate cases, awarded compensatory interest on principles of restitution and equity.

11.3. In support of the aforesaid submissions, reliance was placed upon the decision of the Supreme Court in *Sandvik Asia Ltd. v. Commissioner of Income Tax-I, Pune*¹ to contend that where the Revenue unjustifiably retains monies belonging to an assessee for an inordinate period, the Court is empowered to award compensatory interest at a rate higher than that provided under the statute.

11.4. Further reliance has also been placed upon *CCE, Panchkula v. Riba Textiles Ltd.*², *Reliance Transport and Travel Pvt. v. Union of India*³, *The Principal Commissioner of Central Goods and Service*

¹ (2006) 2 SCC 508

² 2022 (62) GSTL 136 (P&H)

³ (2022) SCC OnLine Bom 649



*Tax v. M/s Green Valley Industries Pvt. Ltd.*⁴, *Principal Commissioner of CGST v. Parle Agro Pvt. Ltd.*⁵, *Reliance Transport and Travel Pvt. Ltd. v. Union of India*⁶, *Union of India v. Tata Chemicals Ltd.*⁷ and *Commissioner of Central Excise, Hyderabad v. ITC Ltd.*⁸ to submit that the grant of such compensatory interest is founded upon the equitable principle of restitution.

12. Contentions of the Respondent:

12.1. *Per contra*, learned counsel for the Respondent supported the Impugned Order and submitted that the Tribunal has rightly held that the amount deposited during investigation was correctly treated as a deposit akin to a pre-deposit under Section 35F of the Act and, consequently, the grant of interest was governed by Section 35FF of the Act.

12.2. It was contended that once the statute expressly provides for payment of interest and the Central Government has, in exercise of the powers conferred by Section 35FF of the Act, notified the applicable rate of interest as 6% per annum, no direction can be issued for payment of interest at a higher rate in the absence of any challenge to the statutory provision or the notification. It was further submitted that the Tribunal has rightly declined to grant interest beyond the statutory rate notwithstanding the decisions relied upon by the Appellant.

⁴ MC (Central Excise Ap.) No. 1/2023

⁵ MANU/UP/3382/2025

⁶ Writ Petition No. 4151/2022

⁷ (2014) 6 SCC 335

⁸ (2005) 13 SCC 689



ANALYSIS & FINDINGS:

13. This Court has carefully considered the submissions advanced on behalf of the parties and perused the material on record.

14. The present Appeal has been filed under Section 35G of the Act. An appeal under the aforesaid provision is maintainable only where the case involves a substantial question of law.

15. The Appellant has already been granted refund of the amount deposited during investigation together with interest strictly in accordance with Section 35FF of the Act read with Notification No. 24/2014-C.E. (N.T.), dated 12.08.2014, whereby the Central Government has notified the rate of interest at 6% per annum. The only grievance raised by the Appellant is that the rate of interest ought to be enhanced from 6% per annum to 12% per annum.

16. There is no dispute before this Court that the amount deposited by the Appellant became refundable consequent upon the order of the Tribunal setting aside the demand. The Tribunal has treated the amount deposited during investigation as being in the nature of a pre-deposit for the purposes of Section 35FF of the Act. Learned counsel for the Appellant has not been able to demonstrate that the Tribunal committed any error in applying Section 35FF of the Act or the notification issued thereunder.

17. Once Parliament has enacted a complete statutory mechanism governing payment of interest and has authorised the Central Government to notify the applicable rate, the entitlement of an assessee has necessarily to be determined in accordance with the



statutory framework. The Appellant does not dispute that interest has been granted in accordance with the notification presently in force. Nor has any challenge been laid either to Section 35FF of the Act or to the notification prescribing the rate of interest. In the absence of any challenge to the validity of the statutory provision or the notification, this Court is required to decide the Appeal within the confines of the statutory framework.

18. It is settled law that where the statute itself creates the right to interest and also prescribes the rate at which such interest is payable, the entitlement cannot ordinarily travel beyond the statute itself.

19. The present Appeal arises from an order passed under the Central Excise Act, 1944. The scope of the present proceedings is, therefore, confined to examining whether the Tribunal has correctly applied the statutory provision. Once it is found that interest has been granted strictly in accordance with Section 35FF of the Act and the notification issued thereunder, this Court cannot, in exercise of appellate jurisdiction under Section 35G of the Act, enhance the statutory rate of interest, merely because the Appellant considers it to be inadequate. Consequently, no substantial question of law survives for consideration.

20. Needless to observe, the aforesaid conclusion is confined to the scope of the present statutory Appeal. If the Appellant claims to have suffered any independent legal injury giving rise to such other remedy as may be available to it in accordance with law, the present judgment shall not be construed as expressing any opinion thereon. Those questions do not arise for consideration in the present proceedings.



21. The reliance placed upon *Sandvik Asia* (supra) by learned counsel for the Appellant is misplaced. The said decision stands explained by the Supreme Court in *Commissioner of Income Tax, Gujarat v. Gujarat Fluoro Chemicals Ltd.*⁹ wherein it was clarified that an assessee is entitled only to such interest as is provided under the statute and that *Sandvik Asia* (supra) did not lay down any general principle entitling an assessee to claim interest *dehors* the statutory provisions.

22. The remaining authorities relied upon by learned counsel for the Appellant also do not advance its case. Those decisions turned on their own facts and the statutory provisions applicable therein. None of them authorises this Court, while exercising jurisdiction under Section 35G of the Act, to substitute the rate of interest specifically prescribed under Section 35FF of the Act read with the notification issued thereunder.

23. In view of the aforesaid discussion, no substantial question of law arises for consideration in the present Appeal.

24. The present Appeal is accordingly dismissed. The pending applications also stand closed.

ANIL KSHETARPAL, J.

SHAIL JAIN, J.

JULY 07, 2026

jai/pal

⁹ Civil Appeal No. 3507/2014