IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, KOLKATA

REGIONAL BENCH – COURT NO.2

Customs Appeal No. 76097 of 2024

(Arising out of Order-in-Appeal No. KOL/CUS/PORT/KS/396/2024 dated 24.06.2024 passed by Commissioner of Customs (Appeals), Kolkata.)

M/s Dalmia Cement (Bharat) Limited,
(Umsoo Mootang, Village- Thangskai, Kheliriahat, East Jaintia Hills,
P.O.- Lumshnong, Meghalaya-793200)

...Appellant

VERSUS

Commissioner of Customs (Port), Kolkata,
(Customs House, 15/1, Strand Road, Kolkata-700001)

.. ...**Respondent**

APPERANCE :

Ms. Sreeja Chakraborty & Mr. Deepro Sen, Advocates for the Appellant
Mr. A. K. Choudhary, Authorized Representative for the Respondent

CORAM:
HON'BLE MR. R. MURALIDHAR MEMBER (JUDICIAL)

FINAL ORDER No…75903/2026

DATE OF HEARING : 10.07.2026

DATE OF PROUNCEMENT: 17.07.2026

PER R. Muralidhar :

The appellant, Dalmia Cement (Bharat) Limited (Dalmia) is engaged in the manufacture of Clinker and Cement. The Appellant imports various capital goods from outside India and duly discharges requisite Customs Duty under Customs Act, 1962. The Central Board of Indirect Taxes and Customs (CBIC) launched a revamped and streamlined program to attract investments in India and strengthen the 'Make in India' initiative. This Scheme was based on Section 65 of the Act, which enabled manufacture and other operations in a custom bonded warehouse. This scheme has been introduced vide the Manufacture and Other Operations in Warehouse Regulations, 2019 (hereinafter referred to as the '**MOOWR**'). The MOOWR Scheme allows importation of capital goods into bonded manufacturing facilities without immediate customs duty payment. Such capital goods are permitted to remain the warehouse till their actual clearance from the warehouse in terms of Section 61(1)(a). Customs duty on such capital goods is payable only if the capital goods are cleared for domestic consumption. Further, no interest under Section 61(2) is payable at the time of payment of Customs Duty.

2. The Appellant was issued a License No. 02/SH/CCP/WH/2023 dated 25.01.2023 (enclosed as Annexure-1 to this Synopsis) under Section 58 read with Section 65 of the Customs Act, for Private Bonded Warehouse (hereinafter referred to as 'MOOWR warehouse') wherein the Appellant was granted the permission to undertake manufacturing and other operations in respect of the dutiable imported goods, which were deposited without payment of duty. One of the goods permitted to be imported under the said License by the Appellant was Cooler (gearbox) falling under Customs tariff heading 84195090 from Germany, which the Appellant imported. Upon its arrival, the Appellant filed into Bond Bill of Entry (BOE) No. 4425836 dated 31.01.2023 and transferred the capital goods to its MOOWR warehouse. The customs duty payable on the subject goods was deferred till the subject goods were cleared for consumption in consonance with MOOWR. Hence, the Appellant paid no customs duty. The Appellant intended to use it in the process of manufacture, as the subject goods were to be used in the cooler which rapidly quenches hot clinker and lowers its temperature and is an important machinery for manufacture of the final products of the Appellant. However, subsequently, the subject goods were cleared for home consumption. At the time of clearance from the MOOWR warehouse, the Appellant duly filed Ex-Bond BOE No. 7035980 dated 25.07.2023 and paid the deferred customs duty of Rs.12,88,709/-. The Assistant Commissioner of Customs, Kolkata levied an interest under 61(2) of the Act along with duty at the time of release the goods. Since the Appellant required the subject goods urgently, the Appellant was compelled to pay interest of Rs. 43,898/-. The Appellant, being aggrieved by the levy and collection of interest under 61(2) of the Act,

filed an appeal before the first Appellate Authority. However, the Commissioner of Customs (Appeals) vide Order-In-Appeal No. KOL/CUS/PORT/KS/ 396/2024 dated 24.06.2024 (hereinafter referred to as "**Impugned Order**") proceeded to reject the appeal filed by the Appellant and upheld the levy of interest of Rs. 43,898/-. Hence, the present appeal before the Tribunal.

3. The Learned Counsel appearing for the appellant makes the following submissions:

4. In the present case, the Impugned order has observed that the subject goods were imported and transferred into its MOOWR licensed warehouse vide 'In Bond' bill of entry dated 31.01.2023. Thereafter, the Appellant filed Ex-Bond Bill of Entry dated 25.07.2023 for clearance of the subject goods for domestic consumption as such in imported condition. Therefore, the subject goods should be treated as warehoused under Section 58 which were allowed clearance for home consumption under Section 68. In view thereof, the Appellant was liable to pay interest along with duty in terms of Section 61(2). At the outset, it is pertinent to appreciate the purport and interpretation of Section 61 of the Customs Act. Section 61(1)(a) of the Customs Act provides that warehoused goods can remain in the warehouse where they are deposited, till their clearance from such warehouse, subject to satisfaction of the following conditions:

i. Such goods are in the nature of capital goods;

ii. Such capital goods are "*intended for use*" in the warehouse where manufacturing operations are permitted under Section 65.

5. Customs duty on such goods are paid are the time of clearance for home consumption from the warehouse licensed under Section 65. Since such goods are not covered under the ambit of Section 61(2) of the Act, hence no interest is payable at the time of clearance.

6. It is not in dispute that the goods in the present appeal are in the nature of capital goods which was transferred to the Appellant's licensed warehouse (viz. MOOWR warehouse) under Section 65 of the Customs Act. In fact, the Appellant imported the subject goods with the intent to use in the process manufacturing, which is evident from the fact that the goods were specified at S. No. 6 of the MOOWR license application of the Appellant as goods permitted to be imported for use in the manufacturing operations within the licensed warehouse.

7. The Learned Counsel submits that it is pertinent to appreciate the meaning of the term *"intended for use".* The term "*intended for use*" is in contradistinction to the term "*actual use*". In this regard, reliance is placed on the decision of the Hon'ble Supreme Court in the case of **State of Haryana vs. Dalmia Dadri Cement Ltd - 2004 (178) E.L.T. 13 (S.C.)** wherein the Hon'ble Supreme Court observed that that the clause mentioned "for use" would mean "intended for use" and this is different from "goods actually used" or "goods used".

8. Therefore, on perusal of the aforesaid decision, it is clear that the statutory requirement contained in Section 61(1)(a) is that the capital goods must be "*intended for use*" in a warehouse where manufacturing operations are permitted under Section 65. The provision does not stipulate that the goods must *necessarily be installed or actually used* before they qualify for the benefit of deferred payment of customs duty without interest.

9. In the present case, it is not in dispute that the subject goods were imported by the Appellant with the intention to use it in the process of manufacture This is evident from the application made by the Appellant to the CBIC under the MOOWR Scheme. At Sl. No.6 under 'goods proposed to be manufactured, or other operations proposed to be out' the subject goods were covered under 'goods proposed to be imported'. The subject goods were imported with the intention to fit it in the cooler. The cooler is used to quench hot clinkers and lower its

temperature. However, owing to subsequent operational and commercial considerations, the Appellant was constrained to clear the subject goods for home consumption as is in imported condition.

10. In this regard, reliance is placed on **Commissioner of Customs (Preventive) Jaipur Vs. M/s. ACME Aklera Power Technology Pvt. Ltd Final Order No. 57992/2024** wherein the Respondent had imported solar modules under MOOWR Scheme to set up its solar power project within the Warehouses. However, it was later discovered by the Respondent that the modules which were of various watt peaks could not uniformly be adjusted in the module mounting structures and the land was not sufficient to accommodate such design of structures and modules. Accordingly, such solar modules were ex-bonded. The Respondent was held liable to pay interest amounting to Rs. 2,88,17,955/- on removal of these solar modules from the warehouses under section 61(2) of the Customs Act and paragraph 12 of the CBIC Circular dated 01.10.2019. In the aforesaid factual background, the Hon'ble CESTAT Delhi by placing reliance on the judgement of Dalmia Dadri (supra) observed that the Commissioner (Appeals) categorically noted that the solar modules were imported under section 65 of the Customs Act, 1962 and intended for use in the project, but could not be used. Therefore, the argument of the Appellant that if solar modules were not "*intended for use*", they should have been immediately ex-bonded and should not have remained in the warehouse for six to seven months cannot be accepted. The solar modules were imported with the intention to use, it is only when the Respondent could not adjust the solar modules that a decision was taken to ex-bond them from the warehouses and use them outside the warehouses. In view of the aforesaid observation, the appeal preferred by the Department was set aside. Therefore, on perusal of the aforesaid judgement it is clear that once the Appellant had unequivocally declared its intention to use the subject goods in the manufacturing operations within the bonded warehouse, and such declaration formed part of the application considered and approved by the Department itself then such goods fall

under the purview of Section 61(1)(a) of the Customs Act. Hence, it is evident that interest under Section 61(2) of the Act would not be applicable to goods imported and warehoused under the MOOWR scheme. Therefore, the charge of interest in the present case is ex-facie bad in law and liable to be refunded.

11. The Appellant submits that the Customs authorities through public notices, trade facilitation advisories issued in relation to the MOOWR Scheme have consistently communicated that interest under Section 61(2) of the Customs Act is not leviable on Ex-Bond Bills of Entry filed for clearance of goods for home consumption from a warehouse operating under Section 65 of the Customs Act.

12. In this regard, attention is invited to Public Notice-62/2020 dated 18.09.2020 issued by Principal Commissioner of Customs, Airport & Air Cargo Complex and Trade Facilitation Advisory bearing F. No. S60 (Misc.)-238/2020 A(G) dated 21.09.2020 issued by Principal Commissioner of Customs (Port), Custom House, Kolkata wherein it was clarified that no interest is leviable on Ex-Bond Bills of Entry filed for clearance of goods for home consumption from a Section 65 warehouse and therefore, various changes were made in the ICEGATE System.

13. Similarly, the CBIC issued an updated FAQ dated 27.10.2020 clarifying certain issues under the MOOWR scheme. In the FAQ it was clarified that import stands deferred till they are cleared from the warehouse for home consumption or are exported. The capital goods can be cleared for home consumption as per Section 68 read with Section 61 of the Customs Act on payment of applicable duty without interest.

14. Therefore, in view of the aforesaid trade circular, public notice and FAQ it is clear that no interest is leviable on goods cleared for home consumption from a warehouse operating under Section 65 of the

Customs Act i.e, a MOOWR licensed warehouse. In view thereof, the interest levied and collected by the department under 61(2) is ex-facie bad in law and cannot be sustained, hence liable to be refunded to the Appellant.

15. In this regard, it is submitted that the reliance on Paragraph 12 of Board's Circular No. 34/2019-Customs dated 01.10.2019 is misplaced and contrary to the facts. Paragraph 12 of the Circular is intended to clarify the position regarding goods warehoused simpliciter under Section 58 of the Customs Act, 1962. The clarification recognizes that a warehouse licensed under Section 65 also possesses a license under Section 58 and, therefore, goods lying in such warehouse which are not intended to be used in manufacture will be cleared for home consumption under Section 68 on payment of applicable customs duty together with interest under Section 61(2). It is submitted that the said circular is not applicable to goods imported with the intention to carry out manufacturing operations in MOOWR licensed warehouses.

16. In view of the above submissions, it is prayed that the impugned order may be set aside and the appeal may be allowed.

17. The Learned AR appearing on behalf of the Revenue submits that the facility of deferred Customs Duty payment has been given only for manufacturing the goods out of the goods warehoused within the premises. As and when the imported goods are used for manufacturing purposes, the Cutoms Duty can be paid on a deferred basis, there being no need to pay any interest. But if the bonded goods are not used within the warehoused premises and they are removed out of the warehouse, the requisite Customs Duty has to be paid along with interest as has been rightly held by the lower authorities. He relies on Paragraph 12 of Board's Circular No. 34/2019-Customs dated 01.10.2019, which clarifies that interest is required to be paid when the capital goods are cleared for home consumption.

18. In view of the above submissions, the Learned AR prays that the appeal may be dismissed.

19. Heard both the sides and perused the appeal papers and the arguments adduced by both sides.

20. Admittedly, the appellant followed proper procedure towards the import of Cooler (Gear Box) to get the same without payment of Customs Duty and got the same warehoused in their warehouse. They were required to use the same as 'capital goods' for carrying out their manufacturing operations. But for some reasons, after a few months, they have cleared this to their another unit. At the time of clearance, they have paid the requisite Customs Duty. But the dispute arose on account of interest, with the Revenue contending that since the capital goods was not used, the interest should be paid and with the appellant taking the stand that there is no requirement to pay the interest.

21. I have gone through the rival claims about the requirement of interest payment on the Customs Duty. The Revenue has relied on Paragraph 12 of Board's Circular No. 34/2019-Customs dated 01.10.2019, reading as under:

> *12. Since the warehouse operating under section 65 also functions as a warehouse licensed under section 58, the licensees can also import goods and <u>clear them as such, for home consumption under section 68 on payment of import duties, along with interest as per sub-section (2) of section 61 of the Act or clear them as such for export under section 69 of the Act.</u> The licensees shall also be required to submit monthly returns in "Form B" as prescribed under Circular No. 25/2016-Cus dated 8th June 2016 in case the warehouse is used for such purposes i.e. non-section 65 purposes. This is being allowed to enable optimum utilization of available infrastructure.*

22. The appellant has relied on CBIC issued an updated FAQ dated 27.10.2020. The relevant portion of the FAQ is reproduced below:

> *8. Can a unit undertaking manufacture and other operations in a bonded warehouse import capital goods without payment of duty? If yes, whether only BCD or both BCD and IGST on imports is covered? For how long is duty deferment available? Is interest payable after some time?*
>
> *Response: A unit licensed under Sections 58 and 65 can import capital goods and warehouse them without payment of duty. Manufacture and other operations in a bonded warehouse is a duty deferment scheme. Thus, both BCD and IGST on imports stand deferred. In the case of capital goods, the import duties (both BCD and IGST) stand deferred till they are cleared from the warehouse for home consumption or are exported. The capital goods can be cleared for home consumption as per Section 68 read with Section 61 of the Customs Act on payment of applicable duty **without interest**. The capital goods can also be exported after use, without payment of duty as per Section 69 of the Customs Act. The duty deferment is without any time limitation*.

23. I find that the clarifications issued, contradict each other. The 2019 Circular states that for the goods cleared for 'home consumption' would require payment of interest. On the other hand, the FAQ issued in 2020 categorically states that the capital goods can be cleared on payment of Customs Duty, without any interest. Therefore, these clarifications do not help either the Revenue or the appellant. The Adjudicating authority has followed the 2019 Circular, without considering the subsequent clarification given in 2020.

24. Section 61 of the Customs Act 1962 reads as under:

> 61. Period for which goods may remain warehoused:-
>
> **(1)** Any warehoused goods may remain in the warehouse in which they are deposited or in any warehouse to which

they may be removed,-

(a) in the case of capital goods intended for use in any hundred percent, export oriented undertaking or electronic hardware technology park unit or software technology park unit or any warehouse wherein manufacture or other operations have been permitted under section 65, till their clearance from the warehouse."

25. It is not in dispute that the goods in the present appeal are in the nature of capital goods and that the warehouses is the place where manufacturing operation is permitted under section 65 of the Customs Act. The only aspect which requires consideration is whether the cooler (gear box), was"*intended for use*" in the warehouse. Apparently, the Cooler (Gear Box) was cleared without being '*put to use'* in the warehouse. The Revenue has taken the stand that the capital goods in question was '*not used'*, whereas the appellant's argument is that the condition specified that there should be an 'intent to use' and not the actual usage.

26. Therefore, in order to come to a conclusion in the present case, rather than relying on either of these two circulars, it would be important to go through the decisions of the Hon'ble Supreme Court and Tribunal. On this issue about the words '*intent to use'* and '*for use'* was the subject matter before the Hon'ble Supreme Court in the case of **State of Haryana vs. Dalmia Dadri Cement Ltd - 2004 (178) E.L.T. 13 (S.C.), wherein the Apex Court has held as under:**

> *10. We are unable to accept the submission of Mr. Bana that, in order to get the exemption, it must be shown that the goods in question, namely, the cement supplied by the assessee in this case was actually used in the generation or distribution of electrical energy. It must be noted that the important words used in the relevant provisions are goods for use by it in the generation or distribution of such energy (emphasis supplied by us). On a plain reading of the relevant clause it is clear that the expression "for use" must mean "intended for use". If the intention of the legislature was to limit the exemption only to such goods sold as were actually used by the undertaking in the generation and distribution of electrical energy, the phraseology used in the exemption clause would have been different as, for example, "goods actually" used or "goods used"*

27. Similar issue had arisen in the case of **Steel Authority of India Ltd. vs. Collector of Central Excise – 1996 (88) ELT 314 (SC),** the Supreme Court again examined the words "*intended for use*" and the relevant observations are as follows:

> *SAIL has a plant at Rourkela which manufactures fertilisers. For such purpose SAIL uses raw naphtha. Raw naphtha was, at the relevant time, excisable at a concessional rate of duty in terms of an exemption Notification (No. 187 of 1961), dated 23rd December, 1961, as amended from time to time. The concessional rate of duty stated therein was admissible provided*
>
> > *"(i) it is proved to the satisfaction of an officer not below the rank of an Assistant Collector of Central Excise that such raw naphtha is intended for use in the manufacture of fertiliser; and*
> >
> > *(ii) the procedure set out in Chapter X of the Central Excise Rules, 1944 is followed." It was the case of the Revenue that a substantial quantity of raw naphtha was not, in fact, used by SAIL in the manufacture of fertiliser. SAIL was, therefore, served with show cause notices demanding amounts of excise duty on quantities of raw naphtha allegedly not utilised for the manufacture of fertiliser.*

5. <u>It is important to note that the exemption notification required proof that the raw naphtha was "intended for use" in the manufacture of fertiliser and not that the raw naphtha was used in the manufacture of fertiliser</u>. Due emphasis has to be given to the clear language of the first condition of the exemption notification and its effect cannot be nullified by an interpretation placed on the second condition. Both conditions must be so read as to give full effect to the clear language of the first condition. The emphasis in this behalf upon Rule 196 in the first order of the Tribunal appears to us misplaced. Rule 196 says that if any excisable goods obtained under Rule 192 are not accounted for as having been used for the purpose and in the manner required, full excise duty thereon is payable. It does not appear to be correct to hold, as the Tribunal did in the first order, that this meant that it was requisite that it should be proved that the raw naphtha had been actually used in the manufacture of fertiliser. In the context, what was required to be shown was that the raw naphtha was used for the purpose and with the intention of manufacturing fertiliser. Duty at the full rate on the raw naphtha would be leviable only if it could not be shown to have been used for the purpose and with the intention of manufacturing fertiliser.

<u>6. There can be no doubt that the raw naphtha that was fed by SAIL into its plant was for the purpose and with the intention of manufacturing fertiliser and that it was only because of supervening circumstances, namely, the low, uncertain and fluctuating availability of power, that the reformed gas produced during the interim stage of manufacture had to be vented out. The benefit of the exemption notification is, therefore, available to SAIL</u> in regard to the raw naphtha that it utilised in its plant for the manufacture of fertiliser but which,

for reasons over which it had no control, did not, in fact, result in the manufacture of fertiliser but had, at the interim stage of reformed gas, to be vented out.

28. The Supreme Court in **BPL Display Devices Ltd. vs. Commissioner of Central Excise, Ghaziabad – 2004 (174) ELT 5 (SC),** has held as under:

The question in this appeal is whether the appellant is entitled to the benefit of Notification No. 13/97-Cus. as amended by Notification No. 25/99-Cus. These two Notifications provide for certain benefits to specified items if they are imported into India 'for use' in the manufacture of other items specified in the notifications.

2.xxxxxxxxxxxThe words 'for use' used in similar exemption Notifications have also been construed by this Court earlier in the ***State of Haryana v. Dalmia Dadri Cement Ltd., 1987 (Suppl) SCC 679*** *to mean 'intended for use'. According to this decision the object of grant of exemption was only to debar those importer/manufacturers from the benefit of the Notifications who had diverted the products imported for other purposes and had no intention to use the same for manufacture of the specified items at any stage.*

29. The Delhi Bench of the Tribunal, on an identical matter involving clearance of capital goods warehoused under MOOWR scheme, in the caes of **CC (Preventive) Jaipur Vs Acme Akelra Power Technology Pvt Ltd – Appeal No.C/50848/2024 vide Final Order Nos.57992/2024 dated 30.07.2024**, has held as under:

5. According to ACME, it started installation of modules and installed more than 7 lakhs modules by November 2023 across different plots of the project. However, it was later discovered by ACME that the modules which were of various watt peaks could not uniformly be adjusted in the module mounting structures and the land was not sufficient to accommodate such design of structures and modules. This led to a change in the plant layout. Accordingly, such modules which could not be set up, were ex-bonded from the *warehouses and used outside the warehouses of the same project. For this reason, 48,742 modules (5.82%) could not be installed due to the change in the plant layout.*

7. An order dated 28.12.2023 was issued by the <u>Assistant Commissioner holding that interest amounting to Rs. 2,88,17,955</u>/- is liable to be paid on removal of these from the warehouses under section 61(2) of the Customs Act and paragraph 12 of the CBIC Circular dated 01.10.2019.

9. The Commissioner (Appeals) passed the order dated 01.04.2024 setting aside passed by the Assistant Commissioner holding that:

(i) *ACME is covered under section 61(1)(a) of the Customs Act, which envisages that the capital goods that have been imported in the warehouse may remain stored in the said warehouse till their clearance in DTA on payment of applicable duties and no interest shall be payable at the time of the said clearance;*

(ii) *Upon detailed examination of figures of receipt, handling, storing and removal of the warehoused goods in respect of solar modules imported during September, 2022 to October, 2023, paragraph 12 of Circular dated 01.10.2019 is not applicable as the concerned solar modules could not be installed due to subsequent changes in design, layout of the project and, therefore, the same were removed from the warehouse by filing the ex-bond Bill of Entries as per section 61(1)(a) of the Customs Act on payment of applicable duties;*

(iii) *ACME had imported capital goods under section 65 of the Customs Act with intention use it is its project. However, 48742 (approx. 5.82% of total imported quantity) could not be used for intended purpose;*

(iv) *Warehoused imported goods which were intended for use in the project of ACME can also be cleared for* *home consumption in terms of section 61(1)(a) of the Customs Act; and*

(v) *The provisions of section 61(1)(a) of the Customs Act and paragraph 12 of the Circular dated 01.10.2019 have been erroneously applied.*

19. *The term "intended for use" is in contradistinction to the term „actual use". This aspect has been highlighted by the Supreme Court in* ***Dalmia Dadri Cement****. The Supreme Court observed that the clause mentioned "for use" would mean "intended for use", and this is different from "goods actually used" or "goods used".*

20. This decision of the Supreme Court in ***Dalmia Dadri Cement*** *was followed by the Supreme Court in* ***BPL Display Devices Ltd.*** *vs.* ***Commissioner of Central Excise, Ghaziabad***[8]*.*

21. In ***Steel Authority of India Ltd.*** *vs.* ***Collector of Central Excise****, the Supreme Court again examined the words "intended for use".*

23. It is not possible to accept the contention of the learned authorized representative appearing for the department that if 48,742 solar modules were not „intended for use", they should have been immediately ex-bonded and should not have remained in the warehouse for six to seven months. It is because of the fact that ACME could not adjust these 48,742 solar modules in the module mounting structure and the land was also not sufficient to accommodate the design of structure and modules, that it was left with no option but to ex-bond these solar modules from the warehouses. Such a decision could not have been taken by <u>ACME immediately upon import of the solar modules. It is only when it realized that these 48,742 solar modules could not be utilized because of the layout that a decision was taken to ex-bond them from the warehouses and use them outside the warehouses. ACME did have the intention to use these solar modules also in their project for the reasons stated above. Such being the position, there is no error in the finding recorded by the Commissioner (Appeals) that these 48,742 solar modules were intended to be used in the project.</u>

30. From the above decisions, it gets clarified that the Supreme Court has clearly demarcated the difference between the words '*intended for use*' and '*put to use'*. It has been held that when the Notification speaks of '*intended for use*' simpliciter, the same cannot be read to adduce the meaning that the Notification calls for actual '*usage*' of the capital goods within the warehoused premises. The issues have been decided by the Supreme Court based on this point itself. Moreover, the issue before the Delhi Bench [Division Bench] was identical, wherein it has been held that so long as the condition of '*intended to use'* has been fulfilled, the appellant can clear the capital goods for home consumption on payment of Customs Duty, without payment of interest.

31. In the present case, it is not the case of the Revenue that the imported Cooler [Gear Box] was not '*intended for use'*, as can be seen from proceedings under the SCN and OIO. The demand of interest is based on the ground the capital goods have not been '*used*' and cleared for home consumption, thereby requiring the appellant to pay the interest on the Customs Duty.

31. To the factual matrix of the present case, the cited case laws of the Supreme Court and more particularly that of the Delhi Division Bench, are squarely applicable. Therefore, the confirmed demand on account of interest is legally not sustainable and requires to be set aside. I do so.

32. The impugned order stands set aside and appeal is allowed. The appellant would be eligible for consequential relief, as per law.

(Pronounced in the open court on…17.07.2026.)

Sd/-
(R. Muralidhar)
Member (Judicial)

Tushar Kr.