

The Commissioner, Central Tax, Delhi vs Jovex International on 18 July, 2022

Author: Rajiv Shakdher

Bench: Rajiv Shakdher

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ CEAC 3/2022 & CM APPL. 31382/2022

THE COMMISSIONER, CENTRAL TAX, DELHI

Through: Mr R. Ramachandran, Sr. Sta
Counsel

versus

JOVEX INTERNATIONAL

Through: Ms Preeti Goel, Advocate

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

% 18.07.2022 [Physical Hearing/Hybrid Hearing (as per request)]

1. According to Mr R. Ramachandran, who appears on behalf of the petitioner, two issues arise for consideration in the instant matter; first, as to the date from which the interest on refund will get triggered i.e., from the date of deposit or after the expiry of three months from the date when the refund application was filed. Second, the rate at which interest should be paid.

2. It is Mr Ramachandran's contention, that insofar as the second aspect is concerned, the interest is payable at the rate of 6%. 2.1 In this behalf, Mr Ramachandran has relied upon the provisions of section 11BB of the Central Excise Act, 1944 [in short, the "Act"], and the notification dated 12.09.2003 issued by the Government of India through the Ministry of Finance (Department of Revenue.) 2.2. It is Mr Ramachandran's contention that the interest under Section CEAC 3/2022 page 1 of 3 11BB of the Act on refund should range between five percent and thirty percent, as per the notification issued by the Central Government. 2.3. Mr Ramachandran submits that via notification dated 12.09.2003, the rate of interest has been fixed at 6 %.

2.4. Mr Ramachandran also submits that the Customs, Excise and Service Tax Appellate Tribunal [In short, "Tribunal"] via the impugned order i.e., order dated 25.11.2021, has granted interest at the rate of 12%, which is contrary to the statutory rate of interest.

2.5. Furthermore, the Tribunal has held that interest is payable from the date of deposit till the date of refund.

3. This, according to Mr Ramchandran, is a substantial question of law, and is likely to occur in other matters as well.

4. Besides this, Mr Ramchandran says that the judgment of the Supreme Court rendered in Sandvik Asia Ltd. v. Commissioner of Income Tax I, Pune & Ors. (2006) 2 SCC 508 has been explained in the judgment dated 19.04.2022 rendered by the Supreme Court in Civil Appeal nos. 2995- 2996/2022 titled Union of India & Ors. v. M/s Willowood Chemicals Pvt. Ltd. & Anr.

5. We may also note that the amount on which refund is sought, according to Ms Preeti Goel, who appears on behalf of the respondent, is the amount which was deposited in the course of investigation. 5.1. The principal amount, therefore, which is involved in the present proceedings is Rs 25,00,000/-.

6. Issue notice.

CEAC 3/2022

6.1 Ms Goel accepts notice on behalf of the respondent

7. Ms Goel says that she does not wish to file a reply and would instead file written submissions.

7.1. Ms Goel's statement is taken on record.

7.2. Leave in that behalf is granted.

7.3. Counsels for the petitioner/revenue shall have also have liberty to file written submissions.

8. Counsel for the parties will file their written submissions, not exceeding two pages each, at least three days before the next date of hearing.

9. In the meanwhile, the operation of the impugned orders shall remain stayed.

10. List the matter on 11.11.2022.

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