

**Applied Electronics Ltd. and anr. Vs. Union of India (Uoi) and ors.**

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**SooperKanoon Citation :** [sooperkanoon.com/361742](http://sooperkanoon.com/361742)

**Court :** Mumbai

**Decided On :** Mar-28-1988

**Reported in :** 1988(18)LC268(Bombay)

**Judge :** Sujata Manohar, J.

**Appeal No. :** Writ Petition No. 2342 of 1986

**Appellant :** Applied Electronics Ltd. and anr.

**Respondent :** Union of India (Uoi) and ors.

**Judgement :**

**Sujata Manohar, J.**

1. The petitioners manufactured and supplied different items of electronic equipment to respondents Nos. 4 and 5 for the Indian National Satellite Project Section 1 (INSAT-I) under a contract between the parties during the period 1979 to 1982. The petitioners paid excise duty on the various items so supplied from 9.8.1979 to 20.7.1982 as per particulars annexed as Exhibit 'A' to the petition. This was in ignorance of an exemption Notification No. 138/78 dated 8.7.1978 under which purchases meant for INSAT-I were exempt from payment of Excise duty. The respondents 4 and 5 informed the petitioners about this exemption by their letter dated 8th December, 1982. Thereupon on or about 10th January, 1983 the petitioners applied to the Assistant Collector, Central Excise for refund of total

amount of Rs. 9,36,926.56 being the excise duty paid under a mistake of law.

2. Under the orders which have been passed by the Collectorate of Central Excise, petitioners have received some refunds. The last order of refund is of 11.5.1984. As a result refund has been granted in respect of items at serial Numbers 1 to 11 and 47 of Exhibit 'A'.

3 After 30th March, 1983 the 1st petitioners had supplied further goods of the same nature to the Post and Telegraphs Department (Respondents 4 and 5) under various purchase orders. In respect of such subsequent supplies the Posts and Telegraphs Department by its letter dated 7th November, 1983 informed the petitioners that it had adjusted a sum of Rs. 6,49,177.60 due and payable to the 1st petitioners in respect of these supplies against the excise duty wrongly recovered from them by the 1st petitioners under earlier supplies.

4. It is now agreed between the petitioners and the respondents that the petitioner No. 1 have already received from the first respondents refund of excise duty due to them against items at Serial Nos. 1 to 11 and item No. 47 of Exhibit 'A' to the petition. It is further agreed between the petitioners and the respondents that after adjusting certain credit availed of by the 1st petitioner, the petitioner No. 1 is entitled to a net refund of Rs. 6,45,560.68 in respect of items at Serial Nos. 12 to 46 of Exhibit 'A' to the petition.

5. Out of this net refund, the petitioners are not claiming any interest for the refund amounts already received by them which they have not paid over to the Posts and Telegraphs Department-Respondents 4 and 5. They are claiming interest on a sum of Rs. 3,88,171.48 only which is the net amount of which the petitioners were denied the benefit. It is agreed that this is the amount on which the petitioners are entitled to claim interest Since the amount is collected by respondents 1 to 3 without the authority of law they are bound to return it together with interest.

6. In view of the above the 1st respondent shall within 8 weeks from today pay to the petitioner No 1 a sum of Rs. 6,45,560.68 by way of refund of excise duty paid by petitioner No. 1 to the Excise Department of the 1st respondents against items at Serial Numbers 12 to 46 of Exhibit 'A' to the petition, together with interest on

Rs. 3,88,171.48 at the rate of 12% per annum from 11.5.1984 till payment.

Rule is made absolute accordingly.

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