

**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

239

CEA-60-2017 (O&amp;M)

Date of decision: 13.03.2023

COMMISSIONER CENTRAL EXCISE & SERVICE TAX  
COMMISSIONERATE, JALANDHAR .... **Appellant**

Versus

M/S HAWKINS COOKERS LTD.

.... **Respondent**

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI  
HON'BLE MRS. JUSTICE MANISHA BATRA**

Present : Mr.Sourabh Goel,Sr. Standing Council for the appellant.

Mr. Saurabh Kapoor, Addl. A.G., Punjab.

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**RITU BAHRI, J. (oral)**

**CM-10912-CII-2021**

Application is allowed and main case is taken on board today itself.

**Main case**

The substantial question of law involved in the present appeal is “*whether the Ld. Tribunal had committed a grave error in relying upon Board’s Circular No.275/37/2000-CX-8A dated 02.01.2002 and 802/35/2004-CX dated 08.12.2004 to grant interest on the amount deposited by the respondent under Section 35 N by treating the same as deposit under Section 35F of the Central Excise Act, 1944?*”

On the ground of interest, the revenue has come up in appeal.

The interest amount involved in this cases is Rs.92,99,487/-. As per the circular/instructions vide F.No.390/Misc/116/2017-JC dated 22.08.2019, the revenue is not to pursue an appeal in which amount involved is

less than one crore. An affidavit has been filed by the Assistant Commissioner (Legal), Central Goods and Service Tax, Division-Phagwara on 02.06.2022. The stand taken in the affidavit is that the present case falls under the exceptions of instructions dated 17.08.2011 as the amount of interest has been wrongly awarded taking the amount deposited under Section 35F instead of Section 35N. The dispute in the present case revolves around the fact that the revenue wanting to give interest three months from the date of application for refund was made, whereas, the interest has been awarded from the date it was deposited by the respondent.

Since the amount is below than one crore, the present appeal is being dismissed keeping the option open for the revenue, if it falls in any exception.

Pending application, if any, also stands disposed of.

**(RITU BAHRI)**  
**JUDGE**

**(MANISHA BATRA)**  
**JUDGE**

**13.03.2023**

Jyoti-IV

Whether speaking/reasoned: Yes/No.  
Whether reportable : Yes/No