

**GIB/MH/QUALCOMM INDIA/21.05.2021/HC-233**

**High Court Category :** GRANT OF INTEREST ON REFUND AMOUNT

**State :** Maharashtra

**Order No.:** GIB/MH/QUALCOMM INDIA/21.05.2021/HC-233

**Name of Entry :**  
QUALCOMM INDIA PRIVATE LIMITED

**Date :** 21-05-2021

**Breif Issue :**

**FACTS AND ISSUE OF THE CASE:**

In this case the Petitioner, Qualcomm India Private Limited is engaged in the business of providing support services primarily to its foreign affiliates within the meaning of Chapter V of the Finance Act, 1994. In order to provide such services, petitioner receives various input services and avails credit for service tax paid thereon under rule 3 of the CENVAT Credit Rules, 2004. It is stated that services provided by the petitioner qualified as export of service under the erstwhile Export of Service Rules, 2006 as well as under rule 6A of the Service Tax Rules, 1994 read with rule 3 of the Place of Provision of Services Rules, 2012.

The petitioner received the refund amounts as sanctioned. However, the refund amounts were sanctioned beyond three months from the date of filing of refund applications. Therefore, the petitioner claimed that it was entitled to interest on delayed payment of refund under section 11BB of the Central Excise Act, 1944 made applicable to service tax vide section 83 of the Finance Act, 1994. In such circumstances, the petitioner submitted a letter requesting respondent authority to grant 6% p.a. interest on delayed refund for the period after expiry of three months from the date of application till the date of actual refund.

However, there was no response to the said letter. Petitioner again requested the respondent to grant interest on the refund amount sanctioned belatedly for the period from June 2008 to December 2014. Along with the said letter, the petitioner submitted a copy of the order passed by the Central Excise and Service Tax Appellate Tribunal (CESTAT), Hyderabad in its own case granting interest on the refund amount sanctioned belatedly.

The Respondent Authority informed the petitioner that no other document evidencing that refund was sanctioned late had been submitted. Hence, he stated that the claim for interest could not be processed on the basis of the letter. However, in the said letter respondent completely ignored the previous letter of the petitioner dated 15.05.2017 and that the letter dated 02.05.2019 was only a sequitur to the earlier letter.

**Decision of Advance Ruling Authority :****DECISION:**

So it clarified that section 11BB says that if any duty ordered to be refunded under sub-section (2) of section 11B to any applicant is not refunded within three months from the date of receipt of an application under sub-section (1) of section 11B, there shall be paid to that applicant interest at such rate which is not below 5% and not above 30% per annum as may be fixed by the central government, by notification in the Official Gazette. The interest will be calculated for the period commencing from the date immediately after the expiry of three months from the date of receipt of such application till the date of refund of such duty.

Therefore, the court held that the petitioner would be entitled to interest under section 11BB of the Central Excise Act, 1944 on the amounts refunded to it. The court directed the authorities to work out the interest amount payable to the petitioner in respect of the refund claims for the relevant periods which shall be paid to the petitioner within three months.