

Interest not provided for in the law- Board wants the field and CDR to take note of an important CESTAT decision: In *Akai Impex Ltd. vs. Commissioner of Customs, Mumbai* [reported in 2003 (156) ELT 700 (Tri-Mumbai)], the CESTAT had held that Tribunal being a creature of the statute namely Customs Act cannot go beyond the statute and order for payment of interest (by the department) for which there was no provision in the statute at the relevant time. Board observes that in some cases Tribunal had ordered payment of interest on pre deposits even though there was no provision for it in the statute. Board wants the field and departmental representatives to note this case and whenever interest is sought from the department even though there is no provision for it, this order of the Tribunal is to be cited in defence of the department. Though it is laudable that a very recently reported order has been brought to the notice of the Board and the Board has immediately reacted, it is surprising that the government seems to be more interested in interest than duty now a days. There was a recent circular from the DG, Central Excise Intelligence that interest has to be paid whenever there is a supplementary invoice and additional duty is paid because of some differences in depot prices. Interest even a penal one should be to discourage assesseees from postponing payment of duty, but collection of interest should not be a regular job of the department. Further Tribunal had not ordered interest on pre deposit routinely. It is only when the department refused to part with the pre deposits, which should have been returned to the assesseees, that Tribunal ordered payment of interest. That was a rapping on the knuckles of some officers for not obeying the orders of the Tribunal or the law. The best course would be for the department to take action against the officers who illegally refused to return the pre deposit. Recently in *HINDUSTHAN SAFETY GLASS WORKS LTD v COMM. OF C. EX., CALCUTTA-II* - 2003 (154) E.L.T. 114 (Tri. - Kolkata), the Tribunal ordered refund of pre deposit with interest because the pre deposit was not returned in spite of the Tribunal order and Board instructions. The Tribunal wanted action to be initiated against officers responsible for not refunding the deposit and to recover the interest from them. - CIRCULAR NO 750/66/2003-CX , dated 26 -09 - 2003 - (see page)