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GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE

Office of the Principal Commissioner RA and
Ex-Officio Additional Secretary to the Government of India
8th Floor, World Trade Centre, Cuffe Parade,
Mumbai- 400 005

F NO. 196/22/WZ/2018-RA /235

Date of Issue: 19.01.22

ORDER NO. 61 /2022-ST (WZ) /ASRA/MUMBAI DATED 13-01-2022
OF THE GOVERNMENT OF INDIA PASSED BY SHRI SHRAWAN KUMAR,
PRINCIPAL COMMISSIONER & EX-OFFICIO ADDITIONAL SECRETARY TO
THE GOVERNMENT OF INDIA, UNDER SECTION 35EE OF THE CENTRAL
EXCISE ACT, 1944.

Applicant : M/s. A1 Fence Products Company Pvt. Ltd.

Respondent : Commissioner CGST Silvassa.

Subject : Revision Application filed, under section 35EE of the Central
Excise Act, 1944 against the Order-in-Appeal No. CCESA-
SRT/(APPEALS)/PS-200/2018-19 dated 31.07.2018 passed by
the Commissioner of CGST & Central Tax, (Appeals) Surat.

ORDER

This Revision Application is filed by the M/s. A1 Fence Products Company Pvt. Ltd , Plot No. 35-36, Athal Industrial Estate, Athal Silvasa (UT) (hereinafter referred to as "the Applicant") against the Order-in-Appeal No. CCESA-SRT/(APPEALS)/PS-200/2018-19 dated 31.07.2018 passed by the Commissioner of CGST & Central Tax, (Appeals) Surat.

2. The brief facts of the case are that, the applicant is registered under Rule 9 of Central Excise Rules, 2002 and holding Central Excise registration No. AAICA0280HEM002 and Service Tax registration No. AAICA0280HSD002. A periodical show cause notice was issued to the Applicant regarding the wrongly taken credit covering period from Oct. 2015 to July 2016 amounting to Rs. 18,413/- which was adjudicated vide OIO No. 01/SUPDT/R-IV/Div-II/DEM/16-17 by confirming the demand of Cenvat Credit of Service tax amounting to Rs.18,413/-under Rule 14 of CCR, 2004 r/w Sections 11A(1) of the Central Excise Act, 1944 along with interest under Section 11AA of the Central Excise.

3. Being aggrieved by the aforesaid order-in-original the applicant filed appeal before Commissioner of CGST & Central Tax, (Appeals) Surat , who vide order- in-appeal No. CCESA-SRT/(APPEALS)/PS-200/2018-19 dated 31.07.2018 rejected their appeal being hit by limitation of time bar in terms of Section 35 of Central Excise Act, 1944.

4. Being aggrieved and dissatisfied with the impugned order in appeal, the applicant had filed this revision Application under Section 35EE of the Central Excise Act, 1944 before the Government.

5. Now , vide its letter dated 28.12.2021 addressed to the Revisionary Authority ,Mumbai, the applicant has informed that they have already settled

this case under Sabka Vishwas Amnesty Scheme and thus requested to close the revision application proceedings.

6. Government finds that Section 83 has been amended by the Finance act 2012, so as to insert Section 35 EE of the central Excise Act, 1944 to make it applicable in relation to Service tax also. Section 35 EE read with proviso to Section 35 B (1) of Central Excise Act, 1944 empowered the Central Government to revise or review the appellate orders passed by Commissioner of Central Excise (Appeals) if such order related to :-

- A case of loss of goods, where the loss occurs in transit from a factory to a warehouse or to another factory, or from one warehouse to another or during the course of processing of the goods in a warehouse or in storage, whether in a factory or in a warehouse;
- A rebate of duty of excise on goods exported to any country or territory outside India or on excisable materials used in the manufacture of goods which are exported to any country or territory outside India;
- Goods exported outside India (except to Nepal or Bhutan) without payment of duty.

7. In the instant case the issue that the demand of Cenvat Credit of Service tax under Rule 14 of CCR, 2004 does not fall under the jurisdiction of this office. In the result, the revision application filed by the Applicant are not maintainable under Section 35 EE of the Central Excise Act 1944.

8. In view of above discussion, the Government is of the opinion that the issue involved in this case does not fall within the jurisdiction of this authority and the application is not maintainable for want of jurisdiction in terms of Section 35 EE of the Central Excise act 1944.

9. In view of the above discussions, the revision application filed by the Applicant is dismissed as non maintainable due to lack of jurisdiction.

Shrawan
13/01/22
(SHRAWAN KUMAR)

Principal Commissioner & ex-Officio
Additional Secretary to Government of India

ORDER No. O / 2022-ST (WZ) / ASRA/Mumbai Dated 13.01.2022

To,
M/s. A1 Fence Products Company Pvt. Ltd ,
Plot No. 35-36, Athal Industrial Estate,
Athal Silvassa (UT)

Copy to:

1. The Commissioner of CGST & CX, Daman Commissionerate
GST Bhavan, RCP Compound , Vapi-396191.
2. The Commissioner of CGST & CX(Appeals), Surat, 3rd Floor, Magnus
Mall, Althan Bhimrad Canal Road, Near Atlantas Shopping Mall, Althan
Surat -395017.
3. The Superintendent, Division-II, CGST & CX Daman Commissionerate,
2nd Floor , Shankar Bhavan Opp. Hirvawan Garden, Silvassa-Vapi Main
Road, Silvassa- 396230.
4. Sr. P.S. to AS(RA), Mumbai.
5. Guard File