

SPEED POST



F.No. 195/170/2018-RA (CX)  
GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(DEPARTMENT OF REVENUE)

14, HUDCO VISHALA BLDG., B WING  
6<sup>th</sup> FLOOR, BHIKAJI CAMA PLACE,  
NEW DELHI-110 066

Date of Issue.. 14/1/21

Order No. 04/21-Cx dated 14-01-2021 of the Government of India passed by Sh. Sandeep Prakash, Principal Commissioner & Additional Secretary to the Government of India, under Section 35EE of the Central Excise Act, 1944.

Subject : Revision Application filed, under Section 35EE of the Central Excise Act, 1944 against the Order-in-Appeal No. 36/DGP-IV/CT(Audit-II)/2017-18 dated 16.02.2018, passed by the Commissioner of Central Excise (Appeals), Kolkata.

Applicant : M/s Steel Authority of India Limited

Respondents : Commissioner of Central Excise & Service tax, Bolpur

**ORDER**

A Revision Application No. 195/170/2018-RA (CX) dated 16.05.2018 has been filed by the M/s Steel Authority of India Ltd, Durgapur, (hereinafter referred to as the applicant) against the Order-In-Appeal No. 36/DGP-IV/CT(Audit- II)/2017-18 dated 16.02.2018, passed by the Commissioner of Central Excise (Appeals), Kolkata, whereby the Order-in-Original No. 148 R/AC/ASP/DGP-IV/13-14 dated 17.01.2014 passed by the Assistant Commissioner of Central Excise, Durgapur-IV Division was upheld.

2. The brief facts of the case are that the applicant filed a rebate claim under, Rule 18 of Central Excise Rules, 2002, for Rs. 14,19,119/-. The original authority rejected the rebate claim, interalia, on the ground that there is a mismatch between the quantity exported and cleared from the factory; that the original copies of Central Excise invoices were not submitted while filing the rebate claim; and that there is a mismatch between the tariff heading declared at the time of export i.e. 86071910 and in ARE-1 form i.e. 72283029. Aggrieved, the respondent filed an appeal before the Commissioner (Appeals) who vide the impugned Order-in-Appeal rejected the same. The instant revision application has been filed broadly on the grounds that there is no legal requirement to furnish the original copy of Central Excise invoice, under Rule 18 of the Central Excise Rules, 2002 read with Notification No. 19/2004-CE 9NT) dated 06.09.2004; that they have submitted the revised ARE-1 depicting the correct weight as measured by the Customs authorities at the port of export; and that the wrong tariff heading has been mentioned inadvertently.

3. Personal hearing in virtual mode was held on 12.01.2021. Sh. Dhruv Tiwari, Advocate, attended the hearing on behalf of the applicant. He reiterated the grounds of revision already stated in their revision application and the written submissions dated 12.01.2021. Since, no one appeared for the respondent and no request for adjournment has been received, the case is being taken up for final disposal.

4.1 The Government has examined the case records, the Commissioner (Appeals)'s order, the revision application and written submissions of the applicant. It is observed by the Government that the ARE-1 No. 002 dated 17.07.2012 related to export of 37.05 MT of Alloy Steel products was originally issued by the applicant under self clearance procedure. The applicant claims that, upon actual weighing at the port of export, the weight was found to be 38.63 MT. Therefore, they issued a revised ARE-1 of same no. and same date and raised a supplementary invoice no. 2A-00016104 dated 31.01.2012 to cover the additional quantity of 1.58 MT. The date on the supplementary invoice was apparently wrongly mentioned as 31.01.2012 instead of 31.01.2013 and therefore the date is corrected in hand on the computerised invoice. Corresponding duty amount of Rs. 11,527/- was stated to have been paid in February 2013 through Cenvat Credit Account (entry sl. 334) and interest of Rs. 1038/- was paid vide challan no. 02704 dated 05.03.2013.

4.2 While the applicant has so attempted to purge the discrepancies, however, the Government observes that, the following issue still remain unresolved:

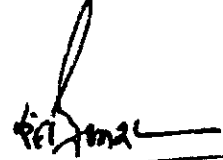
- (i) ARE 1 indicates the goods to be falling under tariff heading 72283029 whereas on the Shipping Bill the classification is declared under heading 86071910. This mismatch has remained uncorrected even though a revised ARE-1 is claimed to have been issued after export.
- (ii) The classification of goods for payment of Central Excise duty and that for export purposes is a substantial requirement relating to assessment. No action to review/modify the assessment has been taken.
- (iii) A revised ARE 1 with the same number and date was admittedly issued by the applicant, however, as brought out by the original authority the original and duplicate copies of the ARE 1 do not match with the triplicate copy in the record of Range Superintendent.

4.3 Another aspect to be noted is that the goods were not examined physically at any stage i.e. neither at the stage of removal from the factory nor by the Custom Officers at the port of export. Thus, the identity of the goods has to be established only with the reference to the records. In view of the position observed above, specifically in para 4.2, it is apparent that there is a substantial mismatch in the records. Hence, it can not be conclusively established that goods exported were same as those declared in the ARE-1.

4.4 The Government is also constrained to observe that the discrepancies are extensive and pervasive so much so that the action taken to apparently correct a mistake has either led to another mistake or the mistake has only been partially corrected/not corrected.

4.5 In view of above discussion, Government holds that since the essential condition for claiming the rebate claim is not fulfilled, i.e. the identity of goods is not established, the rebate of duty claimed by the applicant is not admissible. As such, the impugned OIA does not merit interference.

5. The revision application is rejected.



(Sandeep Prakash)

Additional Secretary to the Government of India

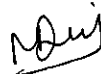
M/s Steel Authority of India Ltd.  
Unit-Alloy Steel Plant, Surya Sen Sarani,  
Durgapur, WestBengal  
Pin Code: 713208

Order No. 04/21-Cx dated 14-01-2021

Copy to:

1. Commissioner of Central Goods & Service Tax, Bolpur, Nanoor Chandidas Road, SIAN, Bolpur, Dist. Birbhum, West Bengal - 731204
2. Commissioner of Central Excise (Appeals), Kolkata-II, Bamboo Villa, 3<sup>rd</sup> floor, 169, A.J.C. Bose Road, Kolkata 700014.
3. Assistant Commissioner of Central Excise, Durgapur-IV Division, S.R. Sarani, Durgapur- 713216
4. PA to AS(RA)
5. Guard File.
6. Spare Copy

Attested



(Nirmala Devi)

Section Officer (Revision Application)