

REGISTERED

SPEED POST



F.No. 195/540/2016-RA  
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.....

Order No. 105/2018-Cx dated 6-2-2018 of the Government of India, passed by Shri R.P.Sharma, Principal Commissioner & Additional Secretary to the Government of India, under Section 35 EE 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. 175(AK)CE/JPR/2016 dated 27.09.2016 passed by the Commissioner of Customs & Central Excise (Appeals), Jaipur

APPLICANT : M/s. Noorani Tex Prints Ltd., Pali - Marwar

RESPONDENT : Commissioner of Central Excise, Jodhpur

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ORDER

A revision application No.195/540/2016 dated 30.12.16 is filed by M/s. Noorani Tex Prints Ltd., Pali - Marwar (hereinafter referred to as the applicant) against the order-in-appeal No.175(AK)CE/JPR/2016 dated 27.09.2016 passed by the Commissioner of Customs & Central Excise (Appeals), Jaipur, whereby the applicant's appeal against the Order of the Assistant Commissioner has been rejected.

2. The brief facts leading to the present proceeding are that the applicant had claimed rebate of duty against the duty of excise paid by them on export of goods. However, it was rejected by the jurisdictional Assistant Commissioner and upheld by the Commissioner (Appeals) vide above stated Order on the ground that the goods exported by the applicant were exempted under Notification No.30/04-CE dated 9.7.04 and thus no payment of duty was required on exported goods.

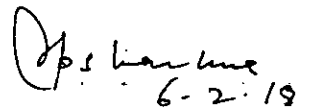
3. The revision application is filed mainly on the ground that they have exported the goods prior to insertion of sub-section 1A in Section 5A of the Central Excise Act w.e.f. 13.5.05 and thus they had option to pay duty and not to avail exemption from central excise duty.

4. Personal hearing was held in this case on 10.1.2018 and it was attended by Shri O.P.Agarwal, C.A., for the applicant, who reiterated the grounds of revision already pleaded in their revision application and also produced e-receipt dated 9.1.18 for payment of fee of Rs.1000/- in respect of the above revision application.

5. On examination of the relevant case records, it is noticed by the Government at the outset that a fee of Rs.1000/- has been paid in this case on 9.1.18 only. Whereas as per sub-section 3 of Section 35EE of Central Excise Act, 1944, a revision application is to be accompanied by a fee of Rs.1000/- when the amount of duty etc. levied by any Central Excise Officer is more than Rs.1.00 lakh. This requirement of payment of fee before or at the time of filing the application is mandatory and no relaxation in this regard is provided under the aforesaid provision or any other Section. Thus if any

application is not accompanied by the specified fee, such application cannot be accepted as properly filed and cannot be considered by the Government by virtue of the above mentioned provision. While the instant revision application has been filed with the Government on 30.12.16, the fee of Rs.1000/- has been paid only on 09.1.18. Thus the proper revision application in this case can be considered to have been filed only on 09.1.18 and by this date this application is badly time barred as a revision application can be filed only within 3 months from the date of communication of the Commissioner (Appeal)'s Order as per sub-section 2 of Section 35EE of Central Excise Act, 1944 which was received in this case on 04.10.16.

5. In view of the above discussion, the revision application is rejected as time barred without going into the merits of the case.

  
6-2-19

(R.P.SHARMA)

Additional Secretary to the Government of India

M/s Noorani Tex Prints Ltd.,  
F-293A, 294, 294A,  
Mandia Road,  
Pali-Marwar-306401  
Rajasthan

ORDER NO 105/2018-6 dated 6-2-2018

Copy to:-

1. Commissioner of Central Excise, 117/5, PWD Colony, Ratanada, Jodhpur
2. Commissioner(Appeal-II), Custom & Central Excise, Statue Circle, NCR Building, Jaipur
3. The Assistant/Deputy Commissioner of Central Excise Division, .R.Building, Plot No.19, Sector-17C, Chandigarh-1600174, Narpat Niwas, Air Force Road, Jodhpur
4. PA to AS(RA)
- ✓ 5. Guard File
- ✗ 6. Spare copy

ATTESTED

(Ravi Prakash)  
OSD (RA)

Attested  
NDP  
6/2/18

(निर्मला देवी / NIRMALA DEVI)  
अनुभाग अधिकारी / Section Officer  
वित्त मंत्रालय (राजस्व विभाग)  
Ministry of Finance (Deptt. of Rev.)  
भारत सरकार / Govt. of India  
नई दिल्ली / New Delhi