

REGISTERED

SPEED POST



F.NO. 195/105/11-RA
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

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

Date of Issue... 21.11.13.

ORDER NO. 105 /2013-CX DATED 6-2 -2013 OF THE GOVERNMENT OF
INDIA, PASSED BY SHRI D P SINGH, JOINT SECRETARY TO THE GOVERNMENT OF
INDIA UNDER SECTION 35 EE OF THE CENTRAL EXCISE ACT, 1944.

SUBJECT : REVISION APPLICATION FILED UNDER SECTION 35 EE OF
THE CENTRAL EXCISE ACT, 1944 AGAINST THE ORDER-IN-
APPEAL P-1/RKS/240/10 dated 23.11.2010 passed by
Commissioner of Central Excise (Appeals) Pune-I

APPLICANT : M/s Hy-Tech Engineers Pvt. Ltd., Chinchwad, Pune

RESPONDENT : The Commissioner of Central Excise, Pune-I

ORDER

This revision application is filed by M/s Hy-Tech Engineers Pvt. Ltd., Chinchwad Pune against the order-in-appeal No. P-1/RKS/240/10 dated 23.11.2010 passed by Commissioner of Central Excise (Appeals) Pune-I with respect to order-in-original No. PI/Div II/Ref/16/CEX/2009-10 dated 21.7.10 passed by Deputy Commissioner of Central Excise , Division-II Pune-I Commissionerate.

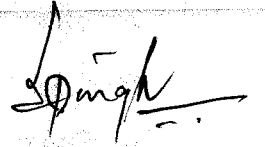
2. Briefly stated facts of the case are that the applicants are holders of Central Excise Registration No.AAACH7368HXM004 and are engaged in the manufacture of Motor Vehicle parts, Forgings and Bright Bars falling under Chapter Heading 87089900 and 72155010 of the Central Excise Tariff Act, 1985. They are also availing Cenvat Credit on inputs, input services and capital goods used in or in relation to manufacture of excisable goods as per the provisions of the Cenvat Credit Rules 2004. The applicants on 28.01.2010, filed a refund application for an amount of Rs.2,46,900/- in respect of accumulated Cenvat credit in terms of Rule 5 of the Cenvat Credit Rules 2004 read with Notification No.5/2006-CE(NT) dated 14.03.2006 for the period April 2009 to June 2009 in respect of inputs used in the manufacture of final goods and subsequently cleared to 100% EOU under benefit of Notification No. 22/03-CE dated 31.03.2003 as amended without payment of duty. Adjudicating authority after due process of law rejected the said refund claim.

3. Being aggrieved by the said order-in-original, applicant filed appeal before Commissioner (Appeal) who rejected the same.

4. Being aggrieved by the impugned order-in-appeal, the applicant has filed this revision application under Section 35 EE of Central Excise Act, 1944 before Central Government on various grounds.

5. Personal hearing was scheduled in this case on 8.8.2012, 12.10.2012 & 20.12.2012. Nobody attended hearing on behalf of the applicant on any of these dates.

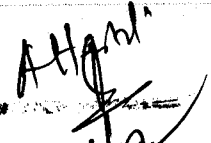
6. Government has carefully gone through the relevant case records and perused the impugned order-in-original and order-in-appeal.
7. On perusal of records, Government notes that issue of refund of accumulated cenvat credit under rule 5 of Cenvat Credit Rules 2004 is involved in this case. This issue is not covered under first proviso to section 35 B(1) and it does not fall under revisionary jurisdiction of Central Government in terms of Section 35 EE of Central Excise Act 1944. Therefore, the revision application filed beyond jurisdiction and is not maintainable before this authority.
8. In view of above position, this revision application stands dismissed.
9. So ordered.



(D.P. Singh)

Joint Secretary (Revision Application)

M/s Hy-Tech Engineers Pvt. Ltd.,
Plot No. 28/14, D-II Block,
MIDC, Chinchwad,
Pune - 411019



(मानव संसाधन/Shegvet Sharma)
सहायक आसिस्टेंट कमिश्नर
CSEC-OSD (Revision Application)
वित्त मंत्रालय (राजस्व विभाग)
Ministry of Finance (Deptt of Rev)
एन सी ई आर / Dept. of India
एन सी ई आर / New Delhi

G.O.I. Order No. 105/2013-Cx dated 01.02.2013

Copy to:

1. The Commissioner of Central Excise, Pune-I, 41/A, ICE House, Sasson Road, Pune-411001.
2. The Commissioner of Central Excise (Appeals), Pune-I, F-Wing, 3rd Floor, ICE House, Sassoon Road, Pune – 411 001.
3. The Deputy Commissioner, Central Excise & Customs, Pune-II Division, Pune – 411044.
4. PA to JS(RA)
5. Guard File.
6. Spare Copy



(B.P. SHARMA)
OSD (Revision Application)