

SPEED POST



F.No. 195/47/2019-R.A.
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...28/5/21...

Order No. 115/2021-CX dated 27-5-2021 of the Government of India, passed by **Sh. Sandeep Prakash**, Additional Secretary to the Government of India, under Section 35 EE of the Central Excise Act, 1944.

Subject : Revision Applications filed under Section 35 EE of the Central Excise Act, 1944 against the Order-in-Appeal No. LUD-EXCUS-001-APP-2373-19 dated 07.05.2019 passed by the Commissioner (Appeals), CGST, Ludhiana.

Applicants : M/s. World Konnect, Ludhiana.

Respondent : The Commissioner of CGST, Ludhiana.

ORDER

A revision application bearing no. 195/47/2019-R.A. dated 31.07.2019 has been filed by M/s. World Konnect, Ludhiana (hereinafter referred to as the Applicant) against Order-in-Appeal No. LUD-EXCUS-001-APP-2373-19 dated 07.05.2019 wherein the appeal filed by the Applicant against Order-in-Original No. 06-11/CGST/AC/LDH/East/2018-19 dated 03.05.2018 has been rejected.

2. Brief facts of the case are that the applicants were holding of Central Excise registration for the manufacturing of excisable goods namely Nuts, Thread, Steel Hinges, Cup lock etc. falling under CETH 73 and 82 of the Central Excise Tariff. They were availing CENVAT facility and exporting the goods under rebate claims. A physical verification of stocks lying in the premises of the applicant by the Preventive Team of Central Excise Commissionerate, Ludhiana, on 03.03.2015, brought to notice excess stocks as compared to the total purchase of raw materials. The department, thus, alleged that the Applicants were indulging in bogus sale/purchase to evade payment of duty and subsequently filing bogus rebate claims. It was also observed that the applicant was sending raw materials for job work without intimating the same to the jurisdictional Central Excise authorities as required under Notification No. 214/86-CE dated 25.03.1986. Rebate claims of Rs. 21,81,010/-, filed by the applicant, for exports effected during 10.12.2014 to 27.02.2015, were rejected vide the Order-in-Original dated 03.05.2018 and a penalty of Rs. 5000/- was also imposed under Rule 25 of the Central Excise Rules, 2002 for contravention of Rule 16A ibid read with Notification No. 216/86-CE dated 25.03.1986. Aggrieved, the applicant filed an appeal before the Commissioner (Appeals), which was rejected vide the impugned Order-in-Appeal.


3. The Revision Application has been filed on the grounds that the visiting team found a stock of 511202.6 Kgs as against total purchase

of raw material of 424602 kgs resulting in a difference of 86600.6 kgs; that the actual difference was only 25600.6 kgs as quantity of 61000 kgs was shown returned by one job worker and exported much prior to the visit; that the original authority accepted this part of the explanation but rejected the rebate claim in respect of total quantity exported i.e. 146209 kgs though difference was only 25600.6 kgs; and that an amount of Rs.1330061/- was paid on export goods by cash and entire amount was not paid from the CENVAT credit.

4. Personal hearing was held on 21.05.2021, in virtual mode, which was attended by Sh. S.S. Bhangoo, Advocate, for the applicant. He reiterated the contents of the Revision Application. No one appeared for the respondent and no request for adjournment has been received. Hence, the matter is taken up for decision on the basis of records.

5. The Government has examined the matter. It is an admitted fact that a discrepancy was, in fact, found in the total stock during the verification by the department for the period 13.08.2014 to 03.03.2015. The department found a variation of 86600.6 kgs whereas it is the contention of the Applicant that the actual difference was only 25600.6 kgs, since a quantity of 61000 kgs was shown returned by a job worker. However, the Government is not persuaded to accept this contention since the movement of goods to and from job workers was without following the procedure prescribed. It is also on record that the Applicants failed to join the investigations pursuant to the visit of the Preventive team. Had they joined the investigations, the claims being made, as above, could have been verified during investigations. As such, the overall conduct of the Applicants appears to have been fraudulent, which has vitiated their claims. Hon'ble Supreme Court has, in the case of Commissioner of Customs, Kandla vs. M/s. Essar Oils Ltd. {<https://indiankanoon.org/doc/894494/>}, held that fraud vitiates even most solemn of the proceedings. In the circumstances, Government is not inclined to interfere with the impugned Order-in-Appeal.

6. The revision application is rejected.


 (Sandeep Prakash)

Additional Secretary to the Government of India

M/s. World Konnect,
 C/o Janta Paints & Chemicals,
 G-170, Phase-V, Focal Point,
 Ludhiana-141 010.

G.O.I. Order No. 115/21-CX dated 27-5-2021

Copy to: -

1. The Commissioner, CGST, Ludhiana.
2. The Commissioner (Appeals), CGST, Ludhiana.
3. Sh. S.S. Bhangoo, Advocate, H.No. 5, Sector 10-A,
 Chandigarh.
4. P.S. to A.S. (Revision Application).
5. Guard File.
6. Spare Copy.

ATTESTED



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