

REGISTERED

SPEED POST



F.NO. 195/421/11-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.....13/1/13

ORDER NO. 115 /2013-CX DATED 12-02-2013 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 NO. No. M-I/RKS/42/2011 dated 02.02.2011 passed
by Commissioner of Central Excise (Appeals) Mumbai -I,
Mumbai

APPLICANT : M/s Blendtex International, Colaba, Mumbai

RESPONDENT : The Commissioner of Central Excise, Mumbai-I

ORDER

This revision application is filed by M/s Blendtex International 303/304, Ram-Nimi, 8, Mandlik Road, Colaba, Mumbai – 400 001, against the order-in-appeal No. M-I/RKS/42/2011 dated 02.02.2011 passed by Commissioner of Central Excise (Appeals) Mumbai –I, Mumbai with respect to order-in-original No.22/R/08 dated 09.04.2008 passed by ACCE (Rebate) Mumbai-I.

2. Brief facts of the case are that the appellants filed a rebate claim in respect of duty paid on the goods exported in respect of below mentioned ARE-1 and shipping bill on 22.08.2007:-

R.C. No. / date	ARE-I No. / Date	Shipping No./Date	Bill	Amount (in Rs)
742 / 22.08.07	01/BLEN / SHIJ / 0405 / 11.10.04	5339189 / 11.10.04		41,156/-

2.1 The rebate claims were filed in respect of the duty paid on the goods manufactured by M/s Shreeji Textiles (P) Ltd., having Registration No.AAFCS0215AXM001, falling under the jurisdiction of Division-Bhilwara, of Central Excise Jaipur-II Commissionerate. The goods were exported through Mumbai port.

2.2 On scrutiny of the above rebate claim, it was noticed that the claim was filed beyond the stipulated period of one year from the date of shipment of the goods. The goods were shipped on 06.11.2004, whereas the claim was filed on 22.08.2007. The adjudicating authority vide letter F.No. V(15)Reb/Ch.73/07/106 dated 08.02.08, gave the appellants an opportunity to produce evidence to prove that the claim was filed within one year from the date of shipment.

2.3 Accordingly, a Deficiency Memo-cum-Show Cause Notice-cum call for personal hearing was issued to the appellants, vide F.No. V(15) Reb./Ch.55/2007/155 dated

05.03.2008, as the appellants failed to file the rebate claim within the stipulated period of one year from the date of shipment of the goods, as prescribed under Section 11B of Central Excise Act, 1944.

2.4 A personal hearing in the matter was fixed on 26.03.2008, wherein the appellants reiterated that the rebate claim application in prescribed format were filed on 31.03.2005, which has been duly acknowledged by Superintendent, Central Excise (Rebate) Mumbai-I, i.e. well within one year from the date of shipment.

2.5 The adjudicating authority vide impugned order-in-original, has rejected the rebate claim on the grounds that the appellants failed to file the rebate claim within one year from the date of shipment.

2.6 The adjudicating authority in his order has observed that the claim of the appellants that they had filed the rebate claim on 31.3.2005, could not be established in any way as the rebate claim was neither allotted any Rebate Claim number nor they were entered in nay of R.C. Register or inward register. Also no acknowledgment was either given to the appellants or taken by them, showing the receipt of the rebate claim on 31.03.2005. The adjudicating authority has therefore rejected the rebate claim as the rebate claim was not filed within one year from the date of shipment.

3. Being aggrieved by the said order-in-original, applicant filed appeal before Commissioner (Appeals) who after considering all the submissions rejected the appeal.

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 the following grounds :-

4.1 We have exported fabrics which we purchased from M/s Shreeji Textile Pvt. Ltd. on 11.10.2004. On 31.03.2005 our person submitted the full application to your office for claiming the refund on the duty paid. Subsequently, the original set was returned back, hand delivery without a letter which should have been the method, as I am given to understand, as the triplicate copy was not received by your office. We asked Mr.

Sawant to look again at both the officers (Bombay and Panvel) to if he could locate this. We do not need to file just a exporters database on 31.03.2005. We have filed our complete application i.e. within one year.

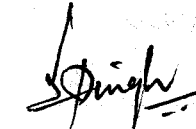
4.2 There is no ground for rejecting the claim on a merely technical ground and that though the claim was filed which was not acknowledged by your office and not insisted upon by my man while filing this claim otherwise there is no reason for us just to file a exporters database to your office without a complete rebate claim application being enclosed to be sanctioned. In the light of the events and once again stressing on the genuinity of the case, we humbly request that relief claim of Rs.41,156/- be granted at the earliest.

5. Personal hearing scheduled in this case on 21.12.2012 was attended by Shri Ashok Rajani, Proprietor of the firm on behalf of the applicant who reiterated the grounds of revision application.

6. Government has carefully gone through the relevant case records and perused the impugned order-in-original and order-in-appeal.

7. The said rebate claim was rejected as time barred since for the goods exported on 6.11.2004, rebate claim was filed on 22.8.2007. The applicant had been claiming that he had initially filed claim on 31.03.2005 which was acknowledged by Supdt. Central Excise (Rebate) Mumbai-I. Commissioner (Appeals) has observed that the copy of Annexure 'A' i.e. proforma of information of exporters filed on 31.03.2005 which was acknowledged by Superintendent Central Excise (Rebate), Mumbai-I, contains the details like name, address, phone No., PAN No., Bank name, Account No. etc. and it nowhere mentioned about filing of rebate claim in respect of impugned goods. Government notes that the said annexure 'A' does not mention about filing any rebate claim alongwith the requisite documents. So the contention of applicant that he filed claim on 31.03.2005 is not acceptable.

8. Government observes that rebate claim filed on 22.08.2007 is clearly time barred as the same was filed after one year time limitation as prescribed in Section 11B of Central Excise Act 1944. There is no provision under Section 11B to condone any delay in filing the rebate claim. Hon'ble Supreme Court has held in the case of Mafatlal Industries Ltd. Vs. UOI 1997 (89) ELT 247 (SC) that the statutory authorities have no power to sanction refund claim filed after the time limit prescribed under Section 11B of CEA 1944. Similar view was held by Hon'ble Supreme Court in the case of Miles India Ltd. 1987 (30) ELT 64 (SC) and Doaba Cooperative Sugar Mills 1998 (37) ELT 478 (SC). Therefore, the rebate claim filed after one year was rightly rejected as time barred.
9. Government finds no infirmity in the impugned order-in-appeal and therefore upholds the same.
10. The revision application is thus rejected in terms of above.
11. So ordered.



(D P SINGH)

Joint Secretary (Revision Application)

M/s Blendtex International
303/304, Ram-Nimi, 8, Mandlik Road,
Colaba, Mumbai – 400 001

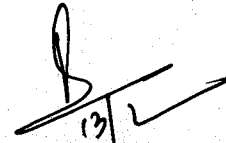


असिस्टन्ट कमिश्नर (रिजिस्ट्रार/शर्मा)
असिस्टन्ट आयुक्त/Assistant Commissioner
C.B. & C.S. (Revision Application)
ऑफिस मंडलोक (राजस्व विभाग)
Ministry of Finance (Deptt. of Revu)
सरकार भारत/Govt of India
14 दिल्ली / New Delhi

G.O.I. Order No. 115 /2013-Cx dated 12.02.2013

Copy to:

1. The Commissioner of Central Excise & Customs, Mumbai-I Commissionerate, New Central Excise Building, M.K. Road, Opp. Churchgate Railway Station, Mumbai – 400 020.
2. The Commissioner of Central Excise (Appeals), Mumbai Zone-I, Mehar Building, Dadi Seth Lane, Chowpatty, Mumbai
3. The Assistant Commissioner (Rebate), Central Excise Mumbai-I Commissionerate, New Central Excise Building, M.K. Road, Opp. Churchgate Railway Station, Mumbai – 400 020.
4. PS to JS(RA)
5. Guard File.
6. Spare Copy



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