

SPEED POST



F.No. 198/41/2018-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. 31/5/21.....

Order No. 117 /2021-CX dated 31-5 -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 Application filed under section 35 EE of the Central Excise Act, 1944 against the Order-in-Appeal No. 34(SRM)/CE/JDR/2018-19 dated 28.06.2018 passed by the Commissioner (Appeals), CGST, Udaipur.

Applicants : Commissioner of CGST, Udaipur.

Respondent : M/s Suzuki Suitings, Bhilwara.

ORDER

A revision application no. 198/41/2018-RA dated 09.10.2018 has been filed by the Commissioner of CGST, Udaipur (hereinafter referred to as the Applicant), against Order-in-Appeal No. 34(SRM)/CE/JDR/2018-19 dated 28.06.2018, wherein the appeal of M/s Suzuki Suitings, Bhilwara, the Respondent herein, against Order-in-Original No. 497(R)/07-08 (Rebate) dated 30.11.2007 has been allowed.

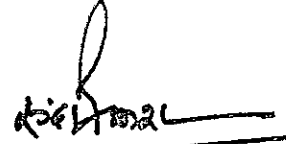
2. Briefly stated, the Respondent, M/s. Suzuki Suitings, Bhilwara, are engaged in the manufacture of manmade fabrics falling under CETH 55 of Central Excise Tariff Act, 1985. The Respondent surrendered their Central Excise Registration No. AABCS9142FXM005 on 30.06.2005 but later, vide their letter dated 09.11.2005, requested for withdrawal of their request for surrender of their Central Excise Registration and restoration of the same, retrospectively. Thereupon, the request of the Respondent was accepted by the department and their old Central Excise Registration was returned, in original. Consequently, the Respondent brought forward the balance of unutilized CENVAT credit lying in their account, as on 30.06.2005 (date of surrender of registration), and started utilizing the same for payment of duty on the goods cleared by them for export under claim of rebate. The rebate claim was rejected on the ground that since they had requested for surrender of their registration certificate, the balance of CENVAT credit available in their account on the date of making such request stood automatically lapsed. Therefore, they were not entitled to pay duty on the export goods from this balance and, consequently, rebate is not admissible to them. Aggrieved, the Respondent filed an appeal before the Commissioner (Appeals) against the Order-in-Original dated 30.11.2007, which was allowed.

3. The revision application has been filed, mainly, on the ground that since the CENVAT credit available to the Respondent stood lapsed automatically on surrender of their registration, the same could not be utilized for payment of duty on export goods and the order of the Commissioner (Appeals) allowing the rebate of such duty be set aside.

4. Personal hearings were granted on 09.04.2021, 26.04.2021, 10.05.2021 and 27.05.2021. No one appeared from the Applicant's as well as Respondent's side. No request for adjournment has also been received. Since sufficient opportunities have been granted, the matter is taken up for final disposal on the basis of records available.

5. The Government has examined the matter. The Respondents had made a request for surrender of their Central Excise Registration, on 30.06.2005, which was never accepted. Later, on 09.11.2005, they requested for restoration of their surrendered certificate which was accepted by the authorities concerned and the original registration certificate was returned to them. Hence, the observation of the Commissioner (Appeals) that since the surrender request was not accepted and the original certificate was returned before acceptance of the surrender request, the validity of the registration certificate remain unaffected, cannot be faulted. As such, the duty paid from the CENVAT credit account, as it existed on the date of surrender, is valid for claim of rebate. Moreover, it appears from the impugned OIA that in a similar matter of a sister concern of the Respondent, relief had been granted to them by Commissioner (Appeals), which appears to have attained finality. In view these facts and circumstances, the impugned order of the Commissioner (Appeals) is upheld.

6. Revision application is rejected.



(Sandeep Prakash)

Additional Secretary to the Government of India

The Commissioner, CGST,
142-B, Hiran Magri, Sector 11,
Near Shahi Bagh, Udaipur- 313 001 (Rajasthan)

G.O.I. Order No. 117 /21-CX dated 31-5-2021

Copy to: -

1. M/s. Suzuki Suitings (A unit of Suzuki Textiles Ltd.),
Village Gudda, Mandal, Distt- Bhilwara (Raj)- 311 403
2. The Commissioner (Appeals), Jodhpur.
3. P.S. to A.S. (Revision Application).
4. Guard File.
5. ~~Guard File.~~
Spare Copy.

ATTESTED

Poonam Gargal.
31/05/2021
Superintendent