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SPEED POST



F.No. 195/40-41/13-RA  
GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(DEPARTMENT OF REVENUE)

14, HUDCO VISHALA BLDG., B WING  
6<sup>th</sup> FLOOR, BHICAJI CAMA PLACE,  
NEW DELHI-110 066

Date of Issue... 6/9/17

ORDER NO. 121-122/17-CX DATED 6-9-2017 OF THE GOVERNMENT OF INDIA, PASSED BY SHRI R.P.SHARMA 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. 293-294/CE/MRT-I/2012 dated 27.09.2012 passed by the Commissioner (Appeals), Central Excise, Meerut-I

Applicant : M/s. Sara Sae Pvt. Ltd.

Respondent : Commissioner (Central Excise), Meerut-I

ORDER

This Revision Application No. 195/40-41/13-RA has been filed by applicant M/s. Sara Sae Pvt. Ltd., Dehradun, against the Commissioner (Appeal's) Order-In-Appeal No. 293-294/CE/MRT-I/2012 dated 27.09.2012 rejecting the applicant's appeal filed before him against Order-in-Original R-226/2011 by Assistant Commissioner, Central Excise, Dehradun.

2. The Brief facts leading to the filing of the Revision Application by the applicant are that the applicant had claimed rebate of duty of Rs. 3,26,670/- against export of oilfield equipments which was rejected by the A.C on the ground that the Rebate claim had been filed after more than one year from the export of goods and the same was upheld by the Comm(Appeals) also under his order dated 18.10.2012. The applicant has filed the above referred Revision Application with a request to quash the Comm(Appeal's) order and allow them the rebate of duty.

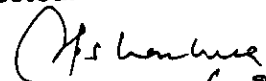
3. The applicant has contented mainly that they have substantially complied the conditions of the Notification issued under Central Excise rebate 18 and as such delay of 3 days on account of Saturday, Sunday and Janmashtami holidays on 20/08/2011 to 22/08/2011 are condonable during which the office of Divisional AC was closed and the postal authorities could not deliver their Rebate claim to the office of the Assistant Commissioner. The hearing in this matter was fixed on 04.09.2017 and the applicant's representatives attending the hearing reiterated the above contention.

4. On examination of all the relevant records relating to the above mentioned Revision Application, it is evident that the export cargo was airlifted on 21.08.2010 and thus as per section 11B of Central Excise Act the rebate claim should have been filed with the Assistant Commissioner of Central Excise Division upto 20/08/2011. Whereas there is no dispute that the Rebate claims of the applicant were received in the Division office on 23/08/2011 only which is certainly after more than one year from the date of export of goods by them on

21/08/2010 which is relevant date in this case. The applicant has also accepted the delay of 3 days in this case and their only contention is that the delay of these 3 days has occurred due to 3 continuous holidays on account of Saturday, Sunday and Janmashtami falling on 21-23 Aug 2011 and the same should be condoned. All these facts and the reasons of delay were also examined by Comm(Appeals) in his order and he has observed that there is no provision in Section 11B and the Central Excise Rules which authorize condonation of delay on account of such holidays. He has also relied upon Gujarat High Court's decision reported as (2009 (10)LCX 0279 in Special Civil Application No. 15172 of 2008 decided on 28.10.2009 wherein it is held that Section 11 B of the Act empowers a person to claim Refund of any duty of Excise before expiry of one year from the relevant date and it does not provide either expressly or impliedly that refund claim may be made after the expiry of period of one year of the relevant date.

5. The government also finds that as per Section 11B of Central excise Act rebate of duty can be claimed only within one year from the relevant date, which is date of export in the present case, and since in this case rebate of duty has been claimed after expiry of one year from the date of Export, the Rebate claim filed by the applicant is undoubtedly time barred. This Section or any other provision in the Central Excise Act or the Rules made thereunder does not provide any authority to anyone, including Government of India, to condone or relax any delay in filing the Rebate claim under any circumstances. Therefore, their request for condonation of delay of 3 days cannot be entertained and the truth remains that there has been a delay in filing rebate claim on the part of the applicant.

6. In view of the above stated facts the Government do not find merit in the Revision Application filed by the applicant and hence the same is rejected.

  
(R.P.SHARMA) 6.7.12

(Additional Secretary to the Government of India)

Conti.


M/s. Sara Sae Pvt. Ltd., Division – III,  
Sara Industrial Estate, Selaqui, Dehradun,  
(uttarakhand)

Order No. 121 - 122 / 17 - Cx dated 6-9-2017

Copy to:-

1. The Commissioner of Central Excise, Meerut – I, Opposite Chaudhary Charan Singh University, Mangal Pandey Nagar, Meerut – 250 005.
2. The Commissioner (Appeals), Customs & Central Excise, Meerut – I, Mangal Pandey, Nagar, Meerut -- (U.P)
3. The Assistant Commissioner, Central Excise, Division Dehradun
4. Shri Pulak Raj Mullick (FCA. ACS. LLB), Advocate, 27 – A, Race Course, Dehradun.
5. PS to AS (Revision Application)
6. Guard File
7. Spare Copy.

ATTESTED

  
(Ravi Prakash)  
OSD (RA)