



REGISTERED  
SPEED POST

F.No. 195/141/2014-RA  
GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(DEPARTMENT OF REVENUE)

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

Date of Issue... 13/9/17

ORDER NO. 124/2017-CX dated 11-9-2017 OF THE GOVERNMENT OF INDIA,  
PASSED BY SHRI RAJPAL SHARMA, ADDITIONAL SECRETARY TO THE  
GOVERNMENT OF INDIA, UNDER SECTION 35EE OF THE CENTRAL EXCISE ACT,  
1944.

---

SUBJECT : Revision Application filed, under section 35EE of the  
Central Excise Act, 1944 against the Order-in-Appeal No.  
19/Kol - I/2014 dated 19.03.2014 passed by the  
Commissioner of Central Excise (Appeals - I), Kolkata.

APPLICANT : M/s. Binayak Hi-Tech Eng. Ltd., Kolkata

RESPONDENT : Commissioner of Central Excise, Kolkata I.

\*\*\*\*\*

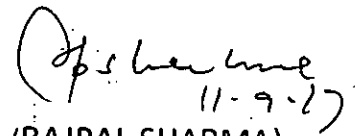
## ORDER

This Revision Application No. 195/141/2014-RA has been filed by the applicant M/s Binayak Hi-Tech Engineering Limited , Howrah, against the Commissioner(Appeal)'s Order-in Appeal No. 19/KOL-I/2014 dated 19/03/2014 rejecting the applicant's appeal filed before him against Order-in Original No. MC/ER/KOL-I/12 dated 31/03/2013 by Maritime Commissioner, Central Excise, Kolkata-I.

2. The Brief facts of the case are that the applicant had exported a consignment of "other cast articles of iron-sanitary castings" under the cover of ARE-I No. 05/R-II/HWD-I/11-12 dated 13/04/2011 and Shipping Bill No. 3202252 dated 12/04/2011 let export on 18/04/2011. The applicant submitted the rebate claim on 06/07/2012 and claimed that since the Custom Authorities had signed the ARE-I ON 20/05/2012 and EP Copy of the Shipping Bill on 10/05/2012, they were unable to submit the rebate claim within one year as stipulated under Section 11B of Central Excise Act, 1944. In his Order-in-Original, The Maritime Commissioner observed that as per provisions of Para 2.4 of Chapter 9(Refund) of Central Excise Manual (Supplementary Instructions), in case any documents were not received for which the department is solely accountable, the claim may be received so that the claim is not hit by limitation period. The exporter could have filed their claims within one year from the date of exportation with whatever documents were available with them to avoid limitation of time as per Section 11 B of the Central Excise Act, 1944. The Commissioner(Appeals) endorsed these views of the Maritime Commissioner in his above order-in appeal and rejected the applicant's appeal resulting in the filing of the instant appeal by the applicant.

3. A Personal Hearing was granted to the applicant on 01/09/2017 but vide their letter dated 28/08/2017 it is informed by the applicants that they are not in a position to appear on the designated date and instead enclosed a written submission re-iterating the above points.

4. Government has examined the applicant's application and all other relevant records. Going by the facts of the case, it is clear that the applicants had indeed an option to file the rebate claim with the Maritime Commissioner in time even without the documents which were not received by them from Customs as stipulated in Chapter 9 (Refund) of Central Excise Manual (Supplementary Instructions). But the applicant failed in filing the claim in time. The submission of the applicant that the late submission of rebate papers is merely a procedural mistake and hence condonable is not tenable because Section 11 B of the Central Excise Act, 1944 or any other legal provision do not provide any relaxation for any reason whatsoever. Hence, the Government do not have any reason to interfere with the order of Commissioner (Appeals) and the Revision Application is hereby rejected.

  
11-9-17

(RAJPAL SHARMA)

ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA

M/s. Binayak Hi-Tech Engg. Ltd., 117/2,  
Mirpara Road, Liluah Bhattanagar, Howrah – 711 203.

Order No. - 124/2017-Cx dt. - 11/9/17

Copy to:-

1. The Maritime Commissioner of Central Excise, Export refund Branch, Kolkata- I, Commissionerate 180, Shantipally, Kendriya Utpad Shulk Bhawan, Rajdanga Main Road, Kolkata - 700 107.
2. Commissioner of Central Excise (Appeal - I), Kolkata, 169, A. J. C. Bose Road, Bamboo Villa, 4<sup>th</sup> Floor, Kolkata - 700 014.
3. The Maritime Commissioner of Central Excise, Kolkata - I Commissionerate, Kolkata 180, Shantipally, Kendriya Utpad Shulk Bhawan, Rajdanga Main Road, 4<sup>th</sup> Floor, Kolkata - 700 107.
4. PS to AS(RA)
5. Guard File.

ATTESTED

*11.9.2017*  
(Debjit Banerjee)  
Sr. Technical Officer