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F.No. 195/599/11-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 07/1/13

ORDER NO. 13 /13-Cx DATED 04-01-2013 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, 1944 AGAINST THE ORDER-IN-APPEAL No. 26/2011 (H-III) CE dt. 25-03-2011 passed by Commissioner of Customs and Central Excise, (Appeals-III) & Service Tax, Hyderabad.
APPLICANT	:	M/s. Resource Technologies Pvt. Ltd., Hyderabad.
RESPONDENT	:	Commissioner of Central Excise, Hyderabad-III.

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ORDER

This revision application is filed by M/s. Resource Technologies Pvt. Ltd., Hyderabad against the Order-in-Appeal No. 26/2011 (H-III) CE dt. 25-03-2011 passed by the Commissioner of Customs, Central Excise & Service Tax (Appeals-III), Hyderabad with respect to Order-in Original No. 1/2011 (R) dt. 12-01-2011 passed by the Deputy Commissioner of Central Excise, Hyderabad, 'G' Division, Hyderabad III, Commissionerate.

2. On perusal of records Government observes that in the instant case, the issue relates to refund of unutilized Cenvat Credit under rules 5 of Cenvat Credit Rules 2004 which is not covered in the first proviso subsection (1) of section 35 B of the Central Excise Act, 1944 and therefore revision application on this issue is not maintainable before Central Government under section 35 EE of Central Excise Act, 1944.

3. Government notes that appeal against Order-in-Appeal on said issue lies to Appellate Tribunal (CESTAT) in terms of sub section (1) of section 35(B) of Central Excise Act, 1944. Therefore the revision application filed before Central Government in terms of section 35 EE of Central Excise Act, 1944 is beyond jurisdiction and thus the same is not maintainable. As such this revision application is dismissed for being non-maintainable.

4. So, Ordered.

(D.P. Singh)

Joint Secretary to the Govt. of India

M/s. Resource Technologies Pvt. Ltd.,
D. No. 2-62/1, Kaktiyanagar,
Habsiguda, Hyderabad-500007.

ATTESTED

K. RAMESHWARAM
विशेष कार्य अधि./OSD-II (RA)
वित्त मंत्रालय, (राजस्व विभाग)
Ministry of Finance (Deptt. of Rev.)
Govt. of India

Order No. 13 /13-Cx dated 04-01-2013

Copy to:

1. The Commissioner of Central Excise & Service Tax, Hyerabad-III, Kendriya Shulk Bhawan, L.B. Stadium Road, Basheer Bagh, Hyderabad-500004.

2. The Commissioner (Appeals-III), Central Excise & Service Tax, 7th Floor, C.R.Building, L.B. Stadium Road, Basheer Bagh, Hyderabad-500004.

3. The Deputy Commissioner of Central Excise Hyderabad-G Division, H.No. 41-87/ 1st Floor, Navya Estate, Maula Ali, Hyderabad-500040.

4. Shri Basheer Ahmed Khan, Tax Consultant, Flat No. 305, Sri Krishna Balaji Apartments, Balaji Nagar Mehdipatnam, Hyderabad-06.

5. Guard File.

6. PS to JS (RA)

7. Spare Copy

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(P.K.Rameshwaram)
OSD (REVISION APPLICATION)