

**REGISTERED
SPEED POST**



**F.No. 195/285/12-RA-Cx
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..21/11/12

ORDER NO. 1372/13-Cx DATED 18-11-2013 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 35EE of the
Central Excise Act, 1944 against the Order-In-Appeal
No. 232(AKJ)CE/JPR-II/2011 dated 29.12.2011 passed
by the Commissioner of Central Excise (Appeals-II),
Jaipur.

APPLICANT : M/s BSL Ltd., Bhilwara

RESPONDENT : The Commissioner, Central Excise, Jaipur.

ORDER

This revision application has been filed by M/s BSL Ltd., Bhilwara, against the order-in-appeal No. 232(AKJ)CE/JPR-II/2011 dated 29.12.2011 passed by the Commissioner of Central Excise (Appeals-II), Jaipur arising out of Order-in-Original passed by the Deputy Commissioner of Central Excise, Division Bhilwara.

2. Brief facts of the cases are that the applicants are engaged in the manufacture of various types of Fabrics. Applicants are exporting the goods under rule 18 and 19 of the Central Excise Rules, 2002 after examination and sealing of containers in their factory under the supervision of central excise officers. The applicant are liable to pay merchant overtime charges (MOT) for such services provided by the central excise officers. The applicant filed a refund claim of Rs. 57,560/- on the ground that they have paid MOT of this amount for normal working hours during Apr., 2010 to Sept., 2010. A show cause notice dated 14.02.2011 was issued to the applicant proposing to reject the refund claim in terms of Customs (Fees for Rendering Services by Customs Officers) Regulations, 1998. The matter was adjudicated vide impugned order in which the refund claim of Rs. 57,560/- was rejected on above said grounds.

3. Being aggrieved by the said Order-in-Original Respondent filed appeal before Commissioner (Appeal) who rejected the same.

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 various ground.

5. Personal hearing scheduled in this case on 17.10.2013 was attended by Shri Subhash Taori, Assistant Manager (Excise) of Company on behalf of the Applicant who re-iterated the ground of revision application. Regarding jurisdiction of the authority to decide the revision application since issue involved

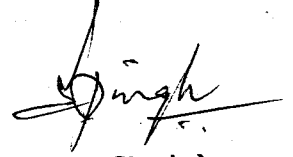
is not mentioned in proviso to Section 35B(1) of Central Excise Act, the applicant is not sure and requested to decide revision application as per law. Nobody attended hearing on behalf of respondent department.

6. Government has carefully gone through the relevant case records and perused the impugned Order-in-Original and Order-in-Appeal.

7. Government observes that issue involved in this case is filing of refund of amount paid as merchant overtime charges (MOT Charges) for service provided by Central Excise Officers in the form of examination and sealing of containers in exporters factory premises. Government finds that this issue does not fall in the category of cases mentioned in proviso to Section 35B(1) of the Central Excise Act 1944 and hence revision application is filed beyond jurisdiction and not maintainable under Section 35EE of the Central Excise Act 1944. The applicant is required to file appeal before Hon'ble CESTAT. As such, Government is constrained to dismiss this revision application as not maintainable.

8. Revision Application thus stands dismissed.

9. So, ordered.



(D.P. Singh)

Joint Secretary to the Government of India

M/s BSL Limited (Processing Division),
Mandpan,
Bhilwara(Raj.)

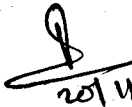
(Attested)

(भागवत शर्मा/Bhagwat Sharma)
सहायक आयुक्त/Assistant Commissioner
C B E C -O S D (Revision Application)
वित्त मंत्रालय (राजस्व विभाग)
Ministry of Finance (Deptt of Rev)
भारत सरकार/Govt of India
नई दिल्ली / New Delhi

Order No.1372/2013-Cx dated 18-11-2013

Copy to:-

1. The Commissioner Central Excise, Jaipur-II/I New Central Revenue Building, Statue Circle, C-Scheme, Jaipur – 302 005..
2. The Commissioner of Central Excise (Appeals) Jaipur-II, New Central Revenue Building, Statue Circle, C-Scheme, Jaipur – 302 005.
3. Deputy Commissioner, Central Excise & Service Tax Division, 10-Azad Nagar, Bhilwara (Raj.)
- ✓ 4. PS to JS(Revision Application)
5. Guard File
6. Spare Copy.


(Bhagwat P. Sharma)
OSD (Revision Application)