

REGISTERED  
SPEED POST



F.No. 195/251/13-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...22/11/13

ORDER NO. 1381 /13-Cx DATED 22.11.2013 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.32(SLG)/2012 dated 17.9.2012 passed by the  
Commissioner of Central Excise (Appeals-III), Kolkata

Applicant : M/s State Bank of India, Ghoghomali, Siliguri

Respondent : The Commissioner, Central Excise, Kolkata-III

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ORDER

This revision application has been filed by M/s State Bank of India, Ghoghomali, Siliguri, against the order-in-appeal No.32(SLG)/2012 dated 17.9.2012 passed by the Commissioner of Central Excise (Appeals-III), Kolkata with respect to order-in-original No.33/ST/Jal/2010 dated 21.9.2010 passed by the Assistant Commissioner of Central Excise, Jalpaiguri Division

2. Brief facts of the cases are that the applicant is registered with the Service Tax Department under the category of 'Banking and Financial Service'. The Department observed that the applicant had started providing taxable service w.e.f. 13.7.2009 but applied for registration on 31.3.2010 which is after delay of 231 days. The Department felt that the applicant should have applied for the same under Section 69 of the Finance Act 1994 [hereinafter the said Act] within thirty days from the date of commencement of providing service in terms of Rule 4(1) of the Service Tax Rules, 1994. The Department further observed that the applicant have made a delayed submission of ST3 return in violation of Section 70 of the said Act. Accordingly, a show cause notice dated 16.7.2010 was issued to the applicant proposing penalty under Section 77 to be imposed on them. After considering their submissions, the lower authority passed an order imposing penalty under Section 77 of the said Act of Rs.44,400/-.

3. Being aggrieved by the said order-in-original applicant filed appeal before Commissioner (Appeal) who rejected the same.

4. Being aggrieved by the impugned order-in-appeal, the applicant has filed appeal addressed to this authority in Form ST-5 under Section 86 of the Finance Act 1994 (32 of 1994).

5. Personal hearing was scheduled in this case on 17.10.2013. Nobody attended the hearing from both sides.

6. Government has carefully gone through the relevant case records available in case files, oral & written submissions and perused the impugned order-in-original and order-in-appeal.

7. On perusal of records, Government observes that the issue involved in impugned case is of delayed submission of ST3 return in violation of Section 70 of the Finance Act 1994. 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 (Revision Application)



M/s State Bank of India  
Ghohomali Main Road,  
Ghogomali, Rabindra Sarani,  
Siliguri

Order No. 1387 /2013-Cx dated 22.11.2013

Copy to:-

1. The Commissioner of Central Excise Kolkata-III 180, Santipally, Rajdanga Main Road, 6<sup>th</sup> Floor, Kolkata-700107.
2. The Commissioner of Central Excise (Appeals), Kolkata-III, 180, Santipally, Rajdanga Main Road, 6<sup>th</sup> Floor, Kolkata-700107.
3. The Assistant Commissioner of Central Excise, Jalpaiguri Division
- ✓ 4. PS to JS (Revision Application)
5. Guard File
6. Spare Copy.

(Attested)



T.R. Arya  
( )

Supdt. (Revision Application)