

**REGISTERED
SPEED POST**



**F.No. 198/34/12-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.....21/1/14

Order No. 1439/13-cx dated 31-12-2013 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. US/425/RGD/2011 dated 24-11-2011 passed by Commissioner of Central Excise(Appeals-II), Mumbai.

Applicant : Commissioner of Central Excise,
Raigad.

Respondent : M/s. Socomed Pharma Pvt. Ltd., Navi Mumbai – 400614.

ORDER

This revision application is filed by Commissioner of Central Excise, Raigad against the Order-in-Appeal No. US/425/RGD/2011 dated 24-11-2011 passed by Commissioner of Central Excise(Appeals-II), Mumbai with respect to Order-in-Original passed by the Assistant Commissioner of Central Excise (Rebate), Raigad. M/s. Socomed Pharma Pvt. Ltd., Navi Mumbai is the respondent in this case.

2. Brief facts of the case are that the respondents rebate claim of Rs. 3,100/- was sanctioned by the original authority vide impugned Order-in-Original. Being aggrieved by the said Order-in-Original, applicant department filed appeal before Commissioner(Appeals) on the ground that the value declared in the ARE-1 was more than the value declared in the shipping bills. The value declared in the ARE-1 was more, which was not the correct transaction value and the duty amount paid on the said excess value was not admissible as rebate. The transaction value as per Section 4 of Central Excise Act, 1944 is the value at which goods are sold but does not include freight and insurance. The Commercial invoice value is the value at which goods are sold. Therefore, the value after deducting freight and insurance from commercial invoice value (which is equal to FOB value) should be the transaction value for the purpose of Section 4 of Central Excise Act, 1944. The difference in the value of the goods shown in the ARE-1 and the FOB value shown in the invoice is arrived after reducing the Freight and Insurance Charges (if any) from the Commercial value. The excess amount paid on ARE-1 value over and above FOB value to the tune of Rs. 3,100/- is not the duty of Central Excise but it is to be treated as "Excess Payment". The rebate in terms of Rule 18 of Central Excise Rules, 2002 is the rebate of Central excise duty paid on the exported goods. Hence, the sanction of rebate of such "Excess payment" is in violation of Rule 18 of Central Excise Rules, 2002. Commissioner (Appeals) decided the case in favour of respondents by rejecting department's appeal.

3. Being aggrieved by the impugned Order-in-Appeal, the applicant department has filed this revision application under section 35 EE of Central Excise Act, 1944 before Central Government on the various grounds.

4. A Show Cause Notice was issued to the respondent under Section 35EE of the Central Excise Act, 1944 to file their counter reply. No counter reply has been received from the respondents.

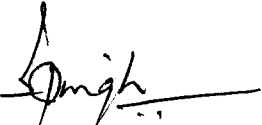
5. Personal hearing scheduled in this case on 28.11.2013 was attended by Shri Shaik Shafiq, General Manger (Finance & Account) on behalf of the respondent and stated that they are not contesting the matter and already deposited duty of Rs. 3,100/- involved in impugned rebate claim with applicable interest.

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 the applicant department has filed this Revision Application mainly on grounds that the rebate claims is admissible on the value, which represents transaction value. The respondents has deposited the excess sanctioned rebate claim amount of Rs. 3,100/- along with applicable interest. Under the above said circumstances of the case, since the respondents has deposited the disputed rebate amount with applicable interest and has not contested the matter the dispute gets settled. As such the revision application is allowed. The impugned orders are modified to this extent.

8. The revision application is disposed off in above terms.

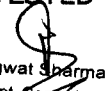
9. So, ordered.


(D.P. Singh)

Joint Secretary to the Govt. of India

Commissioner of Customs & Central Excise,
Central Excise Bhavan,
Race Course Ring Road,
Rajkot

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. 1439/13-Cx dated 31-12-2013

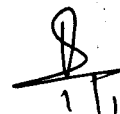
Copy to:

1. The Commissioner of Central Excise (Appeals) Mumbai Zone-II, 3rd Floor, Utpad Shulk Bhawan, Plot No. C-24, Sector-E, Bandra, Kurla Complex, Bandra (East), Mumbai-400 051.
2. The Deputy Commissioner of Central Excise (Rebate), Raigad, Ground Floor, Kendriya Utpad Shulk Bhawan, Sector-17, Plot NO. 1, Khandeshwar, Navi Mumbai-410 206.
3. M/s. Socomed Pharma Pvt. Ltd., Unit No.3, Maruti Paradise, Plot No. 93-95, Sector-15, CBD Belapur, Navi Mumbai – 400614.

4. Guard File.

~~5.~~ PS to JS (RA)

6. Spare Copy



(BHAGWAT P. SHARMA)
OSD (REVISION APPLICATION)