



**GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
DEPARTMENT OF REVENUE**

**Office of the Principal Commissioner RA and  
Ex-Officio Additional Secretary to the Government of India**  
8<sup>th</sup> Floor, World Trade Centre, Cuff Parade,  
Mumbai- 400 005

F. NO. 195/638/13-RA  
F. No. 195/412/13-RA/2162

Date of Issue: 22.03.2021

ORDER NO. 145-146 /2021-CX (WZ) /ASRA/Mumbai DATED 17.03.2021  
OF THE GOVERNMENT OF INDIA PASSED BY SHRI SHRAWAN KUMAR,  
PRINCIPAL COMMISSIONER & EX-OFFICIO ADDITIONAL SECRETARY TO  
THE GOVERNMENT OF INDIA, UNDER SECTION 35EE OF THE CENTRAL  
EXCISE ACT, 1944.

**Applicant** : M/s Sheetal Exports,  
411, Turning Point Complex,  
Ghod Dod Road,  
Surat - 395 001.

**Respondent** : The Commissioner of CGST, Mumbai South  
Commissionerate.

**Subject** : Revision Applications filed, under section 35EE of the  
Central Excise Act, 1944 against the Orders-in-Appeal  
No. BR/62/MI/2013 dated 29.03.2013 and  
BR(382)/MI/2012 dated 05.11.2012 passed by the  
Commissioner of Central Excise (Appeals), Mumbai  
Zone - I.

## **ORDER**

These revision applications are filed by M/s Sheetal Exports, 411, Turning Point Complex, Ghod Dod Road, Surat – 395 001 (hereinafter referred to as “the applicant”) against the Orders-in-Appeal No. BR/62/MI/2013 dated 29.03.2013 and BR(382)/MI/2012 dated 05.11.2012 passed by the Commissioner of Central Excise (Appeals), Mumbai Zone – I.

2. Brief facts of the case are that the applicant had filed a rebate claim of Rs. 13,57,200/- (Rupees Thirteen Lakh Fifty Seven Thousand Two Hundred Only) being duty paid on the goods manufactured by M/s Radha Dyeing & Ptg. Mills pertaining to erstwhile Bhandup Division of Mumbai –III Commissionerate. On scrutiny of the said rebate claims the rebate sanctioning authority observed that the applicant had not followed the proper procedure for clearance of goods under self sealing / self certification. In view of the same, the impugned rebate claims were rejected vide Order in Original No. 124/R/06 dated 27.02.2006. Aggrieved by the said Order in Original, the applicant filed an appeal before Commissioner of Central Excise (Appeals), Mumbai Zone – I. The appellate authority rejected appeal filed by the applicant vide Order in Appeal No. CPA(3166)135/MI/2006 dated 20.09.2006. Being aggrieved by the Order in Appeal, the applicant filed Revision Application before the Joint Secretary to the Government of India. The Joint Secretary vide Order No. 191/09 CX dated 10.07.2009 set aside the Order in Original and Order in Appeal and allowed the application by remanding the case to the original authority to sanction the rebate claim. Aggrieved by the order, Department as well as the applicant filed Writ Petition before the Hon’ble Bombay High Court.

### **3. Writ Petition No. 2114/10- filed by the applicant before Bombay High Court against the Revision Order No. 191/09 CX dated 10.07.2009:-**

3.1 The subject Writ Petition was filed by the applicant before Hon’ble High Court for implementation of the Joint Secretary’s Order No. 191/09-CX dated 10.07.2009. The Hon’ble Bombay High Court in the applicant’s petition

directed the authorities to implement the Order dated 10.07.2009 passed by the Joint Secretary within one week from dated i.e. 17.03.2010.

3.2 In view of the directions of the Hon'ble Bombay High Court, the Assistant Commissioner (Rebate) sanctioned the rebate claim of Rs.13,57,200/- vide Order in Original No. 15/R/2010 dated 22.03.2010.

3.3 The Order in Original No. 15/R/2010 dated 22.03.2010 was reviewed by the department vide Review Order No. 14/2010 dated 26.05.2010 and appeal was filed before Commissioner (Appeals), Mumbai Zone - I on 18.06.2010 stating that the department had not accepted the order of the Joint Secretary and had also filed writ petition in Hon'ble Bombay High Court against the same.

3.4 As the Department had filed an appeal against the Order in Original No. 15/R/2010 dated 22.03.2010, the Additional Commissioner, Central Excise, Mumbai -I issued Show Cause Notice F. No. V. Adj (54)CSCN/15-59/2010 dated 14.11.2011 raising demand for recovery of the rebate amount of Rs.13,57,200/- erroneously sanctioned and paid to the applicant.

3.5 The adjudicating authority confirmed the demand of Rs.13,57,200/- (as per para 3.4 above) along with interest at appropriate rate vide Order in Original No. 06/MI/2012-13 /Addl dated 11.01.2013.

3.6 Being aggrieved, the applicant filed an appeal before the Commissioner of Central Excise (Appeals), Mumbai Zone- I against the Order in Original No. 06/MI/2012-13 /Addl dated 11.01.2013. The appellate authority vide Order in Appeal No. BR/62/MI/2013 dated 29.03.2013 rejected the appeal filed by the applicant and upheld the impugned Order in Original.

**3.7 The instant Revision Application F. No. 195/638/13-RA has been filed by the applicant against the Impugned Order in Appeal No. BR/62/MI/2013 dated 29.03.2013.**

3.8 Further, in respect of the appeal filed by department against Order in Original No. 15/R/2010 dated 22.03.2010 (refer para 3.4 supra), the Appellate Authority vide Order in Appeal No. BR/382/MI/2012 dated 05.11.2012 set aside the Order in Original No. 15/R/2010 dated 22.03.2010 and allowed the appeal filed by the department.

**3.9 The applicant filed another revision application F. No. 195/412/13-RA against the Impugned Order in Appeal No. BR/382/MI/2012 dated 05.11.2012.**

**4. Writ Petition No. 3959/10- filed by the department before Bombay High Court against the Revision Order No. 191/09 CX dated 10.07.2009:**

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4.1 Now, with reference to the writ petition filed by the department against the Revision Order No. 191/09 CX dated 10.07.2009, it is found that the Hon'ble Bombay High Court set aside the said Order of the Revisionary Authority and sent back the case to the original authority for de novo consideration. The Hon'ble High Court further directed the adjudicating authority to decide the rebate applications expeditiously and with a period of three months.

4.2 In view of the directions of the Hon'ble High Court, the adjudicating authority after following due course of law, rejected the impugned rebate claims vide Order in Original No. 163/R/2011 dated 18.10.2011.

4.3 Being aggrieved by the OIO No. 163/R/2011 dated 18.10.2011, the applicant filed an appeal before the Commissioner of Central Excise (Appeals), Mumbai Zone-I. The appellate authority vide Order in Appeal No. YDB(37)/MI/2012 dated 30.04.2012 rejected the appeal filed by the applicant and upheld the Order in Original.

**4.4 The applicant filed another revision application F. No. 195/736/12-RA against the Impugned Order in Appeal No. YDB(37)/MI/2012 dated 30.04.2012.**

5. A Personal hearing in the matter was granted on 16.02.2021 and Shri K.I. Vyas, Advocate attended the same online. He reiterated the submissions made earlier in the matter. He also submitted additional submissions and mentioned that Revision Application F. No. 195/638/13-RA and 195/412/13-RA are interlinked.

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. The Government notes that the Hon'ble Bombay High court, while deciding the issue involved in the Writ Petition No. 2114/10 filed by the applicant, had directed the department to implement the Revision Order No. 191/09-CX dated 10.07.2009. In view of these directions, the rebate sanctioning authority vide Order in Original No. 15/R/2010 dated 22.03.2010 sanctioned the impugned rebate claim for an amount of Rs. 13,57,200/- filed by the applicant. The Revision Applications i.e F. No. 195/638/13-RA and 195/412/13-RA ensued out of the impugned Order in Original in the following manner :-

- i) The Revision Application No. 195/638/13-RA was filed by the applicant against the Order in Appeal No. BR/62/MI/2013 dated 29.03.2013 whereby the appellate authority upheld the Order in Original No. 06/MI/2012-13/Addl dated 11.01.2013 passed by the original authority for confirmation of demand of erroneously sanctioned rebate of Rs. 13,57,200/-.
- ii) The Revision Application No. 195/412/13-RA has been filed by the applicant but against the Order in Appeal No. BR/382/MI/2012 dated 05.11.2012 whereby the appellate authority had set aside the Order in Original No. 15/R/2010 dated 22.03.2010 vide which the impugned rebate was sanctioned to the applicant.

8. The Government finds that the core issue regarding admissibility of the impugned rebate claim to the applicant has been discussed at length by Revision Authority while deciding the Revision Application No. 195/736/12-RA i.e. the Revision application filed by the applicant against Order in Appeal No. YDB(37)/MI/2012 dated 30.04.2012 passed by the appellate authority on similar issue resulted in the rejection of the impugned rebate claims by the adjudicating authority vide Order in Original No. 163/R/2011 dated 18.10.2011 (para 4.4 supra). The Revision Authority had passed the Revision Order No. 442/2020-CX(WZ)/ASRA/MUMBAI dated 16.03.2020. It is observed that the Revision Authority vide impugned Revision Order has remanded the matter back to the lower authority for following principles of natural justice and allowing opportunity back to decide the same afresh, after due verification of documents and pass the order expeditiously.

8.1 As such, it is obvious that the fate of the revision applications under consideration depends on the outcome of the scrutiny of the impugned rebate claim done by the rebate sanctioning authority as per the guidelines in the Revision Order No. 442/2020-CX(WZ)/ASRA/MUMBAI dated 16.03.2020. It is observed that the genus of the proceedings in the two Revision Application under consideration is a particular rebate claim filed by the applicant. The impugned rebate claim has traversed through the appellate forum and was held as admissible vide Revision Order No. 442/2020-CX(WZ)/ASRA/MUMBAI dated 16.03.2020 subject to scrutiny at the level of Rebate Sanctioning Authority. Under the circumstances, any separate decision on the correctness of the rebate claim and the recovery of the amount sanctioned in the first round of proceedings while the admissibility of rebate claim is already before the original authority for fresh decision would be premature. In this view, to avoid multiplicity of proceedings, the Government holds that the issues involved under these revision applications should also be decided on the basis of outcome of the scrutiny of impugned rebate claim as per the guidelines given by Revision Authority in its Order No. 442/2020-CX(WZ)/ASRA/MUMBAI dated 16.03.2020.

9. In view of above discussion, Government passes following order in respect of these two Revision Application under consideration.

a) The Order in Appeal No. BR/62/MI/2013 dated 29.03.2013 is set aside and the matter is remanded back to the original authority. The Original Authority shall take decision in the matter on the basis of outcome of the scrutiny of the rebate claims remanded back to the Rebate Sanctioning Authority after following principles of natural justice. The Revision Application No. 195/638/13-RA is disposed off accordingly.

b) The Order in Appeal No. BR/382/MI/2012 dated 05.11.2012 is also set aside and the matter is remanded back to the original authority. The Original Authority shall take decision in the matter on the basis of outcome of the scrutiny of the rebate claims remanded back to the Rebate Sanctioning Authority after following principles of natural justice. The Revision Application No. 195/412/13-RA is disposed off accordingly.

11. Revision Applications are disposed off on above terms.

*Shrawan*  
*17/03/2021*  
(SHRAWAN KUMAR)

Principal Commissioner & Ex-Officio  
Additional Secretary to Government of India

ORDER No. 14 S-14/2021-CX (WZ) /ASRA/Mumbai DATED 17.03.2021

To,  
M/s Sheetal Exports,  
411, Turning Point Complex,  
Ghod Dod Road,  
Surat - 395 001

Copy to:

1. The Commissioner of CGST & CX, Mumbai South Commissionerate, 13<sup>th</sup> & 15<sup>th</sup> Floor, Air India Building, Nariman Point, Mumbai - 400 021.
2. The Commissioner of CGST (Appeals-I), 9<sup>th</sup> Floor, Piramal Chambers, Jijibhoy Lane, Lalbaug, Parel, Mumbai - 400 012.
3. Sr. P.S. to AS (RA), Mumbai
4. Guard file
5. Spare Copy