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SPEED POST



F.No. 198/37/2015-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.....

Order No. 149/2018-Cx dated 5-7-18 of the Government of India, passed by Shri R.P.Sharma, Principal Commissioner & Additional 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 Act, 1944 against the Order-in-Appeal No. 172(SLM)CE/JPR/2015 dated 31.3.2015 passed by the Commissioner of Central Excise (Appeals), Udaipur

Applicant : Commissioner of Central Excise, Udaipur

Respondent : M/s Kushalbagh Marbles Pvt. Ltd., Banswara

ORDER

A Revision Application No.198/37/2015-RA dated 07.07.2015 is filed by the Commissioner of Central Excise, Udaipur (hereinafter referred to as the applicant) against the Order-In-Appeal No.172(SLM)CE/JPR/2015 dated 31.3.2015, passed by the Commissioner of Central Excise (Appeals), Jaipur, whereby rebate of duty of Rs.20092/- has been allowed to the respondent M/s Kushalbagh Marbles Pvt. Ltd., Banswara.

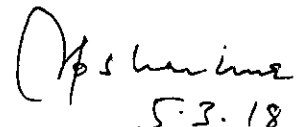
2. The revision application has been filed mainly on the ground that the Commissioner (Appeals) has erred by allowing the rebate to the respondent despite of non submission of triplicate copies of ARE-1s required in terms of para 8.4 of Chapter 8 of CBEC's Excise Manual of Instructions..

3. A personal hearing was held in this case on 22.2.2018 and Shri Praveen Gupta, Assistant Commissioner of Chittorgarh Division, appeared for personal hearing on behalf of the applicant. He reiterated the above stated ground of revision and requested to set aside the Commissioner (Appeals)'s Order.

4. On examination of the revision application in the light of Commissioner (Appeals)'s Order, the Government observes at the outset that the revision application has been filed for a very small amount on the ground that the respondent has not produced the triplicate copy of the ARE-1s No.19 and 20/2011-12 involving the rebate claim of Rs.20092/-. However, the impact of non submission of the said documents on the admissibility of the rebate claim has not been explained in the revision application and it is merely stated that its submission is mandatory as per CBEC's Manual of Supplementary Instructions. However, Government finds that this ground is very trifling in as much as the submission of triplicate copy of ARE-1 is a procedural aspect only and the mandatory condition for rebate of duty is export of duty paid goods in time and submission of rebate claim within prescribed time of one year. On the other hand, the Commissioner (Appeals), in his Order, has expressly observed that the Adjudicating Authority had not rejected the rebate claim of Rs.20092/- for the reason of non submission of triplicate copy and the duty paid character of the exported goods can be

ascertained from RG 23A Part II or challans etc. Even in the revision application it is not alleged that the respondent had not paid the duty against the ARE-1s No.19 and 20. Further, it is implied from the revision application itself that the respondent had submitted other copies of ARE-1s wherefrom the payment of duty on the exported goods can be established easily. It is also not clear from the revision application that the respondent had not submitted the triplicate copy to the Range Superintendent and if the triplicate copy had been submitted by the respondent to the Range Superintendent the latter cannot be blamed for non submission of the said copy along with the rebate claims. Above all, non submission of triplicate copy of the ARE-1s was not the ground of rejection in the A.C's Order and it cannot be a reason for rejection of substantive claim of the respondent. Since the mandatory conditions regarding export of duty paid goods in prescribed time of six months and filing of rebate claims within one year have been undeniably complied with in this case, the Government does not find any fault in the Order of the Commissioner (Appeals) with regard to allowing of rebate of Rs.20092/-.

6. Accordingly, the revision application filed by the Commissioner of Central Excise is rejected.


5.3.18

(R.P.Sharma)

Additional Secretary to the Government of India

Commissioner of Central Excise
Udaipur,
142-B, Hiran Magri, Sector-11
Udaipur-313002 (Rajasthan)

G.O.I. Order No. 149/18-Cx dated 5-3-2018

Copy to:-

1. M/s Kushalbagh Marbles Pvt. Ltd., Road No.5, RIICO Industrial Area, Banswara (Rajasthan)
2. Commissioner of Central Excise (Appeals-I), Jaipur, NCR Building, Statue Circle, C-Scheme, Jaipur-302005
3. The Deputy Commissioner, Central Excise Division Chittorgarh, Rajasthan
4. PA to AS(Revision Application)
- ✓ 5. Guard File
6. Spare Copy.

ATTESTED

5.3.2018

(Debjit Banerjee)
STO (RA)