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SPEED POST



F.No.198/58/2014-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.....

Order No. 15/2018-Cx dated 5-3-18 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.82/CE/DLH/2014 dated 19.05.2014 passed by the Commissioner of Central Excise (Appeals) Delhi-I

Applicant : Commissioner of Central Excise, Delhi-I

Respondent : M/s Tirupati Balaji Industries Co., Delhi

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**ORDER**

A Revision Application F.No.198/58/2014-RA dated 02.09.2014 is filed by the Commissioner of Central Excise, Delhi-I (hereinafter referred to as the applicant), against the Order-In-Appeal No.82/CE/DLH/2014 dated 19.05.2014, passed by the Commissioner of Central Excise (Appeals) Delhi-I, whereby the appeal filed by the respondent M/s Tirupati Balaji Industries Co., DSIDC, Narela, has been allowed.

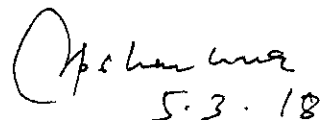
2. The brief facts involved in the present proceeding are that the respondent manufactured Gutkha during the period 27.7.12 to 31.7.12 and the entire products were exported on payment of duties of Rs.306452/- for which a rebate claim was filed. However, the Assistant Commissioner of the concerned Division rejected the same on the ground that the respondent had not paid the central excise duty for the full month of July 2012 and had paid duty for the 5 days only. The respondent filed an appeal before the Commissioner (Appeals) who allowed the appeal and set aside the AC's above Order. Being aggrieved, the applicant has filed the revision application against the Commissioner (Appeals)'s Order mainly on the ground that the Commissioner (Appeals) has committed an error by allowing the rebate of duty to the respondent even when the respondent did not pay compounded duty on Gutkha for the whole month of July 2012.

3. A personal hearing was fixed in this case on 23.2.18. However, no one appeared for the hearing for both applicant as well as the respondent. Further, no request for any other personal hearing is also received, from which it is implied that they are not interested in availing personal hearing in this case and hence the revision application is taken up for decision on the basis of available records.

4. On examination of the revision application in the light of Order of the Commissioner (Appeals), the Government has noticed that the admissibility of the rebate of duty to the respondent has been discussed by the Commissioner (Appeals) in detail in his Order and he has clearly observed that the issue in the present case is regarding rebate of duty against the export of goods and not a case of abatement of duty claimed by the respondent for which duty for the whole month is required to

be paid in advance. He further held that the Notification No.32/2008-CE(NT) dated 28.8.2008 does not stipulate any condition that the duty payment for the entire months is a pre-condition for claiming rebate of duty on exported goods and the rebate of duty has been claimed by the respondent in respect of central excise duty only paid on the exported goods. The above observations of the Commissioner (Appeals) have not been rebutted by the applicant in their revision application and the same contention pleaded before the Commissioner (Appeals) that the respondent did not pay the compounded central excise duty for the entire month of July 2012 has only been advanced. However, this objection is devoid of any legal basis as above referred Notification does not stipulate any such condition for sanctioning of rebate of duty. As per Rule 18 of Central Excise Rules, 2002 and Notification No.32/2008, the main conditions for claiming rebate of duty are that the duty paid goods have been exported within stipulated time and the claim has been lodged within one year from the export of the goods. The compliance of these conditions is not in dispute in the present case and there is no allegation from the applicant that other conditions mentioned at S.No. (ii) to (ix) have not been satisfied in this case. Considering these facts and the legal provisions, the Government does not find any fault in the Order of the Commissioner (Appeals).

4. In view of the above discussion, the revision application is rejected.

  
5.3.18

(R.P.Sharma)

Additional Secretary to the Government of India

Commissioner of Central Excise,  
Delhi-1 Commissionerate,  
C.R.Building, I.P.Estate,  
New Delhi-110002

Order No. 15/18-Cx dated 5-3-2018

Copy to:

1. M/s Tirupati Balaji Industries Co., B-2392, 1<sup>st</sup> Floor, DSIDC Narela, Delhi-110040
2. Commissioner (Appeals) Central Excise, Delhi-1 Commissionerate, C.R.Building, I.P.Estate, New Delhi
3. The Deputy Commissioner, Central Excise Division-1, 8 Deep Shikha Building, Rajendera Place, New Delhi
4. PA to AS(RA)
5. Guard File.
- ✓ 6. Spare Copy

ATTESTED

*5.3.2019*

(Debjit Banerjee)  
OSD (Revision Application)