

REGISTERED

SPEED POST



F.No. 198/69/2018-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..06./07./2021..

Order No. 156/21 -CX dated 06-07-2021 of the Government of India passed by Shri Sandeep Prakash, Additional Secretary to the Government of India, under Section 35EE 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. 148/HWH/XAP-136/2017-18 dated 21.05.2018 passed by the Commissioner Central Excise (Appeals-II)/ Commissioner, CGST & CX, Kolkata-North, Kolkata.

Applicant : Commissioner of CGST & CE, Howrah.

Respondent : M/s Sonali Polyplast Pvt. Ltd., Hooghly.

ORDER

A Revision Application No. 198/69/2018-R.A. (CX) dated 13.11.2018 has been filed by the Commissioner of CGST & CE, Howrah (hereinafter referred to as the Applicant) against Order-in-Appeal No. 148/HWH/XAP-136/2017-18 dated 21.05.2018, passed by the Commissioner Central Excise (Appeals-II)/Commissioner, CGST & CX, Kolkata-North, wherein the Order-in-Original No. 23/Singur/2014-15/Rebate dated 12.02.2015, passed by the Assistant Commissioner of Central Excise, Singur Division, Kolkata-IV, has been upheld.

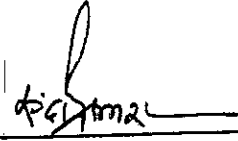
2. The brief facts of the case are that the respondents had filed rebate claim of Rs. 4,43,663/- in respect of central excise duty paid on export goods i.e. Calcium Carbonate (FMB) against six ARE-Is under Rule 18 of Central Excise Rules, 2002. The original authority sanctioned the said rebate claim. Being aggrieved with the Order-in-Original dated 12.02.2015, the Applicants herein filed an appeal before the Commissioner (Appeals) on the ground that the FOB value was less than the ARE-I value and hence the rebate ought to have been restricted to the duty payable corresponding to the FOB value. The Commissioner (Appeals) rejected the appeal of the Department and the instant revision application has been filed, mainly, on the grounds that the rebate had been wrongly sanctioned by the sanctioning authority to the extent of the duty paid on that portion of

value which does not form part of transaction value and, thus, the same was not admissible under Rule 18 of Central Excise Rules, 2002 as rebate is admissible on the value of exported goods determined under Section 4 of the Central Excise Act, 1944.

3. Personal hearing, in virtual mode, was held on 05.07.2021. Sh. Apurba Swarnakar, AC, attended the hearing on behalf of the Applicant and reiterated the contents of the revision application. Sh. Shyam Sunder Bajaj, Director, attended the hearing for the respondents and submitted that the disputed rebate amount is only Rs. 636/-. The difference had arisen due to exchange rate fluctuation between the date of removal for export from the factory gate and the date of export.

4. The Government has examined the matter. It is observed that the disputed rebate amount is just Rs. 636/-. As per proviso to Section 35EE (1), *"the Central Government may in its discretion, refuse to admit an application in respect of an order where the amount of duty or fine or penalty, determined by such order does not exceed five thousand rupees."* Keeping in view the aforesaid provision and the facts and circumstances of the case, the Government refuses to admit the instant revision application.

5. The revision application is disposed of accordingly, without advertng to the merits of the case.



(Sandeep Prakash)

Additional Secretary to the Government of India

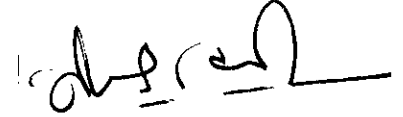
The Commissioner of CGST & CE, Howrah
Commissionerate, MS Building, 15/1,
Strand Road, Kolkata- 700 001.

Order No. 156/21-Cx dated 06-07-2021

Copy to:

1. M/s Sonali Polyplast Pvt. Ltd., Village-Ajabnagar, P.O.-Malla Shimla, P.S.-Singur, Distt.- Hooghly-712223.
2. Commissioner Central Excise (Appeals-II), Kolkata.
3. PA to AS(RA)
5. Guard File.
6. Spare Copy

Attested



(Ashish Tiwari)

Assistant Commissioner (Revision Application)