

REGISTERED  
SPEED POST



F.No. 198/14-15/2015-R.A.  
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...4/4/18

ORDER NO 158459/18-CE dated 2-4-2018 OF THE GOVERNMENT OF INDIA,  
PASSED BY SHRI R.P.SHARMA, PRINCIPAL COMMISSIONER & ADDITIONAL  
SECRETARY TO THE GOVERNMENT OF INDIA, UNDER SECTION 83 of the Finance  
Act, 1994 read with Section 35EE OF THE CENTRAL EXCISE ACT, 1944.

SUBJECT : Revision Application filed under Section 35EE of the  
Central Excise Act,1944, read with section 83 of Finance  
Act, 1994, against the Order-in-Appeal No. 26-  
27(SLM)CE/JPR-II/2014 dated 31.12.2014, passed by the  
Commissioner of Central Excise (Appeals), Jaipur.

APPLICANT : Commissioner of Central Excise, Udaipur.

RESPONDENT : M/s. Inani Marbles & Industries Ltd.

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ORDER

A Revision Application No. 198/14-15/2015-R.A. dated 08.04.2015 is filed by the Commissioner of Central Excise, Udaipur (hereinafter referred to as Applicant) against Orders—In—Appeal No. 26-27(SLM)CE/JPR-II/2014 dated 31.12.2014, passed by the Commissioner of Customs & Central Excise (Appeals), Jaipur, whereby the revenue's appeal has been rejected and the order of the jurisdictional Assistant Commissioner allowing rebate of duty has been upheld.

2. The Revision Application is filed mainly on the ground that Commissioner(Appeal) has erroneously termed non-submission of invoice as a minor lapse despite this document is required for filling rebate claim as per Para 2.2 of Chapter 8 of CBEC's Excise Manual of Supplementary Instructions.

3. A Personal hearing was fixed on 28.02.2018 in this case and it was attended by Shri P.R.Gupta, Assistant Commissioner of Chittorgarh Division, who reiterated the above referred grounds of revision. However, the respondent requested for adjournment of the hearing on 28.02.2018 and on their request the next hearing was fixed on 20.03.2018. But the respondent did not avail the hearing on this date also. Hence, the revenue's Revision Application is taken up for decision without offering any other hearing in this case.

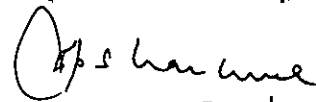
4. On examination of the Revision Application, the government has found at the outset that the Revision Application has been filed after delay of 7 days and an application for condonation of delay is filed mainly on the ground that the application was forwarded well within the time limit of 3 months on 26.03.2015 and late receipt of the same in the office of the government of India is on account of delay on the

part of the postal authorities. On examination of the detail of track events furnished by the applicant, the above stated facts that they had dispatched the Revision Application on 26.03.2015 and it was delivered on 30.03.2015 is found to be true and therefore the delay of 7 days is condoned as per request of the applicant.

5. However, on merit the government does not find the Revision Application maintainable merely because the respondent did not issue the Central Excise invoice in respect of exported goods. Non issuing of invoice is primarily a breach of Rule 11 of the Central Excise Rules, 2002 and is not a sole evidence of payment of duty. But no penal action is apparently taken against the respondent for non-issuing of the invoice in contravention of Rule 11 and rather this lapse is being used by the applicant for denial of rebate of duty. The Commissioner (Appeal) has rightly observed in his order that the first and foremost condition for getting rebate of duty under Rule 18, read with Notification No. 19/2004-CE(NT) dated 06.09.2004, is that the goods cleared for export under ARE-1 are actually exported on payment of duty and this condition has been undisputedly satisfied in this case as per payment of duty and export certificates of the Custom Authorities on the original & duplicate copies of the ARE-1. The export of the goods on payment of duty is not doubted by the applicant also anywhere in the Revision Application. Further no allegation is also made that other conditions stipulated in Notification No. 19/2004 have not been complied with this case. Submission of copy of the invoice along with rebate claim is not a condition in the above Notification and its requirement in the CBEC's Manual of Supplementary Instructions is just for guiding the departmental Officers for ensuring sanctioning rebate of duty against duty paid exported goods only. But it cannot be given precedence over Rule 18 and Notification No. 19/2004 for denial of rebate of

duty to the respondent which is granted as an incentive by the Government of India to encourage maximum exports from this country.

6. In view of the above discussions, the government does not find any error in the Orders—In—Appeal and the Revision Application filed by the revenue is rejected.

  
2.4.18

(R.P.Sharma)

Additional Secretary to the Government of India


The Commissioner of Central Excise & Service Tax,  
Udaipur, 142-B, Sector-11, Hiaran Magri,  
Udaipur - 313002. (Rajasthan)

ORDER NO/58-159/18-CX dated 2-4-2018

Copy to: -

1. M/s. Inani Marbles & Industries Ltd., F-17 & 58, RIICO Industrial Area, Chittorgarh (Rajasthan).
2. The Commissioner of Customs & Central Excise (Appeals), NCR Building, C-Scheme, Jaipur -302005
3. The Assistant Commissioner of Central Excise & Service Tax, Division Chittorgarh, Plot No. 168-172, Sector-4, Gandhinagar, Chittorgarh, Rajasthan
4. PA to AS(RA)
5. Guard File
6. Spare copy

ATTESTED

  
2.4.2018

(Debjit Banerjee)  
S.T.O. (RA)