

REGISTERED SPEED POST AD



सत्यमेव जयते

**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, Cuffe Parade,  
Mumbai- 400 005

F. No. 195/125/17-RA

F. No. 195/152/17-RA

1206

Date of Issue: 17.01.2023

ORDER NO. \6 - \7-2023-CX(WZ)/ASRA/MUMBAI DATED \6.01.2023  
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. Indian Oil Corporation Ltd.  
Gujarat Refinery,  
P.O. Jawaharnagar,  
Vadodara - 391 320

**Respondent :** Commissioner of CGST & Central Excise, Vadodara-I

**Subject :** Revision Application filed under Section 35EE of the Central Excise Act, 1944 against Order-in-Appeal No. VAD-EXCUS-001-APP-322/2016-17 dated 16.09.2016 & No. VAD-EXCUS-001-APP-451/2016-17 dated 21.12.2016 passed by the Commissioner of Central Excise(Appeals), Vadodara.

## ORDER

This revision application has been filed by M/s. Indian Oil Corporation Ltd., Gujarat Refinery, P.O. Jawaharnagar, Vadodara – 391 320(hereinafter referred to as “the applicant”) against the Order-in-Appeal No. VAD-EXCUS-001-APP-322/2016-17 dated 16.09.2016 & No. VAD-EXCUS-001-APP-451/2016-17 dated 21.12.2016 passed by the Commissioner of Central Excise(Appeals), Vadodara.

2.1 The issue in brief is that the applicant is engaged in the manufacture of petroleum products falling under chapter 27 and 29 of the CETA, 1985. From the scrutiny of the ER-1 Returns filed by them, it was observed that they had cleared petroleum products viz. naphtha, under bond(for export) to different locations as per the provisions of Rule 20 of the CER, 2002 read with CBEC Circular No. 579/16/2001-CX dated 26.06.2001 & CBEC Circular No. 581/18/2001-CX dated 29.06.2001. It was noticed from the AR3As and rewarehousing certificates given by the consignees that in certain cases there was short receipt of various petroleum products at the place of rewarehousing. It was further contended that after withdrawal of the warehousing facilities vide Board Circular No. 796/29/2004-CX dated 04.09.2004, duty was required to be paid on the quantity of petroleum products cleared from the refinery. It was also averred that in terms of Board Circular No. 804/1/2005-CX dated 04.01.2005, the assessee is required to pay duty on the shortages noticed on the basis of the rewarehoused AR3As. Likewise, in certain cases there was excess quantity received at the place of rewarehousing. The actual quantity cleared by them exceeds the permissible limit prescribed in the respective CT-2 certificates, hence the excess clearances were not valid duty free clearances and therefore the assessee is required to discharge the duty liability on such excess clearances at the factory/refinery end.

2.2 The assessee had been issued SCN's for clearances of petroleum products namely naphtha, made to various locations for exports but short received or excess received by the consignee at the place of rewarehousing under bond worked out on the basis of rewarehousing certificates(AR3As).

2.3 The Adjudicating Authority took up the cases for adjudication. After discussing the issues in detail, the adjudicating authority found that the claim for condonation of loss of 1% shortage in warehousing at the export warehouses was not permissible and held that the assessee was liable to discharge duty liability on such shortages. He also found that the assessee was liable to pay duty in respect of excess quantity, cleared by them without making payment of duty. The adjudicating authority also held that the assessee was liable to pay interest on these amounts. He further found that the assessee had contravened the provisions of Rule 20 of the CER, 2002 with intent to evade payment of duty as they had failed to discharge the duty liability on the short quantity/excess quantity at the factory/refinery gate and therefore they were liable to be penalised under Rule 25(1)(d) of the CER, 2002.

2.4 After considering the submissions of the applicant, the Adjudicating Authority vide Orders in original No. VAD-EXCUS-001-JC-061-2016-17 dated 28.07.2016 & No. VAD-EXCUS-001-JC-087-2016-17 dated 27.09.2016 confirmed the demand for the various periods along with interest in terms of provisions under Sections 11A(1) & 11AB /11AA of Central Excise Act,1944 respectively and imposed a penalty upon the assessee under Section 11AC of the Central Excise Act, 1944 read with Rule 25 of the CER, 2002.

3. Being aggrieved by the said Orders-in- Original, applicant filed appeals before Commissioner (Appeals), who vide Order-in-Appeal No. VAD-EXCUS-001-APP-322/2016-17 dated 16.09.2016 & No. VAD-EXCUS-001-APP-

451/2016-17 dated 21.12.2016 upheld the Orders in original passed by the Adjudicating Authority and rejected the appeals filed by the applicant.

4. Being aggrieved with the impugned Orders, the applicant filed two (2) Revision Applications before the Government on various grounds mentioned therein.

5. A personal hearing in these matters was fixed on 12.10.2022, Shri Ashit N. Mehtaji appeared for personal hearing and submitted that both their matters have been settled under SVLDRS. The applicant vide his letter dated 12.10.2022, informed this office that they had opted for the closure of these cases under Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 (SVLDRS) and further informed that Discharge Certificate for Full and Final Settlement of Tax Dues under Section 127 of the Finance (No.2) Act, 2019 read with Rule 9 of the Sabka Vishwas (Legacy Scheme, 2019)] had been issued by the designated committee. In view of this the applicant has requested to treat these 2 Revision Applications as withdrawn and to treat the matters as closed.

6. The applicant has enclosed copies of Form No. SVLDRS-4 (Discharge Certificate issued by the designated Committee) No. L090520SV400166 & No. L090520SV400167 both dated 09.05.2020 to his letter.

7. Government observes that the issue contested in the instant 2 Revision Applications stands settled through Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 and in view thereof the applicant has requested for withdrawal of the 2 Revision Application vide letter referred above. Under such circumstances, Government without going into the merits of the case,

allows the applicant to withdraw the 2 Revision Applications mentioned above.

8. The Revision Applications are dismissed as withdrawn.

  
16/11/23  
(SHRAWAN KUMAR)

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

ORDER No. <sup>16-17</sup> /2023-CX (WZ) /ASRA/ DATED 16.11.2023

To,  
M/s Indian Oil Corporation Ltd.  
Gujarat Refinery,  
P.O. Jawaharnagar,  
Vadodara - 391 320

Copy to:

- 1) The Commissioner of CGST & Central Excise, Vadodara-I
- 2) The Commissioner (Appeals), Vadodara
- 3) Sr. P.S. to AS (RA), Mumbai
- 4) Guard file
- 5) Spare Copy.