

SPEED POST



F.No. 195/08-11/2019-R.A.
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..13/7/21.....

Order No. 162-164/2021-CX dated 12-7-2021 of the Government of India, passed by **Sh. Sandeep Prakash**, 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. LUD-EXCUS-001-APP-2090-2093-19-20 dated 13.02.2019, passed by the Commissioner (Appeals), CGST, Ludhiana.

Applicants : M/s SEL Textiles Ltd., Muktsar (Punjab).

Respondent : Principal Commissioner of Central Excise & CGST, Ludhiana.

ORDER

Four revision applications, bearing nos. 195/08-11/19-R.A., all dated 16.04.2019, have been filed by M/s SEL Textiles Ltd, Muktsar, Punjab (hereinafter referred to as the Applicants) against the Order-in-Appeal no. LUD-EXCUS-001-APP-2090-2093-19 dated 13.02.2019, passed by the Commissioner (Appeals), CGST, Ludhiana, vide which the Commissioner (Appeals) has upheld the Orders-in-Original nos. 13/GST/AC/Div.Muktsar/2018-19, 14/GST/AC/Div.Muktsar/2018-19 both dated 02.08.2018 and 15/GST/AC/Div.Muktsar/2018-19, 16/GST/AC/Div.Muktsar/2018-19, both dated 06.08.2018, passed by the Assistant Commissioner, Muktsar.

2. Brief facts of the case are that the Applicants were engaged in the manufacture of 100% Cotton Yarn, falling under Chapter 5205 of the Central Excise Tariff Act, 1985. The finished goods were exported under claim of rebate of final stage duty under Section 11B of the Central Excise Act, 1944 read with Rule 18 of Central Excise Rules, 2002. Subsequently, rebate claims of Rs 4,84,576/-, Rs. 2,94,623/-, Rs. 2,90,828/- and Rs. 4,87,331/- were filed by the Applicants, which were rejected by the original authority on the grounds that higher rate of drawback had been claimed by the Applicants and, thus, rebate could not be granted to them as it would amount to double benefit. Aggrieved, the Applicants filed appeals before the Commissioner (Appeals),

which were rejected vide the impugned Order-in-Appeal dated 13.02.2019.

3. The Applicants have filed these revision applications, broadly on the ground that claiming higher rate of drawback does not bar them from claiming rebate of duty paid on final products that were exported. The rebate of duty paid on the final product sets off the duty paid on the finished product and the duty drawback sets off the duty suffered at the input stage and it does not have any bearing on the final stage duty. They had not availed any CENVAT credit on inputs and input services used for manufacturing the final products but had paid duty from CENVAT credit account of capital goods.

4. Personal hearing was held on 09.07.2021, in virtual mode. Sh. Subash Jain, Advocate, appeared for the Applicants. He reiterated the contents of the revision applications and subsequently submitted a synopsis with compilation in support of his contentions. No one attended the hearing for the respondents and no request for adjournment has also been received. Hence, the matter is taken up for decision on the basis of facts available on record.

5.1 The Government has examined the matter. The issue involved in this case is whether the rebate of Central Excise duty paid in respect of exported goods would be admissible when the applicant exporter had already availed composite (or higher) rate of drawback in respect of the same goods.

5.2 It is observed that the issue involved is squarely covered by the judgment of Hon'ble High Court of Madras, in the case of M/s Raghav Industries [2016 (334) E.L.T. 584 (Mad.)], wherein in Para 13, it has been held:

“While sanctioning rebate, the export goods, being one and the same, the benefits availed by the applicant on the said goods, under different scheme, are required to be taken into account for ensuring that the sanction does not result in undue benefit to the claimant. The ‘rebate’ of duty paid on excisable goods exported and ‘duty drawback’ on export goods are governed by Rule 18 of Central Excise Rules, 2002 and Customs, Central Excise Duties and Service Tax Drawback Rules, 1995. Both the rules are intended to give relief to the exporters by offsetting the duty paid. When the applicant had availed duty drawback of Customs, Central Excise and Service Tax on the exported goods, they are not entitled for the rebate under Rule 18 of the Central Excise Rules, 2002 by way of cash payment as it would result in double benefit.”

5.3 The judgement in Raghav Industries (supra) has been followed by the Hon'ble Madras High Court in the case of M/s Kadri Mills (CBE) Ltd. [2016(334) ELT 642 (Mad.)].

5.4 Per-contra, the Applicants have relied heavily upon the judgments in the cases of M/s Arvind Ltd. [2014(300) ELT 481 (Guj.)], M/s Winsome Yarns Ltd. [2015 (317) ELT 479 (Tri.-Del.)] and M/s Nahar Industrial Enterprises Ltd. [2012 (283) ELT 444(GOI)] to support their case. However, it is observed that all these decisions are regarding admissibility of rebate in respect of duty paid at the will of the assessee on the goods that were exempt from payment of whole duty and, as such, are not applicable in the instant case where dispute is regarding admissibility of rebate claim where higher rate of drawback had already been availed.

5.5 It will also be relevant to highlight here that the Government has consistently held a view that allowing drawback on both Customs and Central Excise portion and rebate of duty on final product will amount to double benefit. Earlier Order in the case of Sabre International limited [2012(280) ELT 575 (GOI)], Order No. 4394-97/18-Cx dated 13.07.2018 in the case of M/s Anshupati Textiles, Order No. 195/795/2010-CX dated 04.09.2018 in the case of M/s RSWM, Order No. 69-96/19-CX dated 09.10.2019 in the case of M/s. Maharaja Shree Umaid Mills Ltd., Pali, Rajasthan, Order No. 588-609/18-CX dated 12.11.2018, in the case of M/s Vardhman Spinning Mills, Order No. 05-17/21-CX dated 28.01.2021, in the cases of M/s Arisht Spinning Mills and M/s Auro Spinning Mills, Order No.18-27/21-CX dated 18.02.2021 in the cases of M/s Mahavir Spinning Mills and Auro Textile Mills

and Order No. 153-155/2021-CX dated 01.07.2021 in the cases of M/s Arisht Spinning Mills, Auro Spinning Mills and Vardhman Spinning Mills, refer in this regard, wherein the Government has rejected the revision applications.

6. In view of the above, the Government finds no infirmity in the impugned Order-in-Appeal and the revision applications are rejected.


(Sandeep Prakash)

Additional Secretary to the Government of India

M/s SEL Textiles Ltd.,
Village: Punjwara Tehsil Malout,
Distt. Muktsar, Punjab.

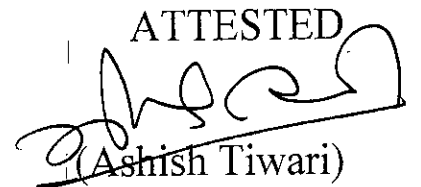
G.O.I. Order No. 162-164/21-CX dated 12-7-2021

Copy to: -

1. The Commissioner of Customs and CGST, CGST Bhawan, F-Block, Rishi Nagar, Ludhiana- 141 001.
2. The Commissioner (Appeals), CGST, Ludhiana.
3. Sh. S. C. Jain, NF-937A, JMD Megapolis, Sec-48, Sohna Road, Gurgaon-122 001.
4. P.S. to A.S. (Revision Application).
5. Guard File.

6. Spare Copy.

ATTESTED


(Ashish Tiwari)

Assistant Commissioner (R.A.)