

**REGISTERED  
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**F.No. 195/255/11-RA-CX  
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...5/11/12

**ORDER NO. 1647 DATED 05.12.2012 OF THE GOVERNMENT OF  
INDIA, PASSED BY SHRI D. P. SINGH, JOINT 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. M.I/RKS/10/2011 dated  
6.1.11 PASSED BY COMMISSIONER OF CENTRAL  
EXCISE (APPEALS), Mumbai-I**

**APPLICANT : M/S SATYA INTERNATIONAL, SURAT**

**RESPONDENT : COMMISSIONER OF CENTRAL EXCISE, MUMBAI-I**

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**ORDER**

This revision application is filed by the applicant M/s Satya International, Surat against the order-in-appeal No.M-I/RKS/10/2011 dated 6.1.11 passed by the Commissioner of Central Excise (Appeals), Mumbai-I with respect to order-in-original No. 309/R/05 dated 26.4.06 passed by Assistant Commissioner Central Excise (Rebate), Mumbai-I.

2. Brief facts of the case are that the applicants filed rebate claims in respect of duty paid on the goods exported which were manufactured by their own unit. On scrutiny of the rebate claims it was revealed that the applicants failed to submit the duty payment certificate. Hence, a Deficiency-Memo-cum-Show Cause Notice-cum-Call-for-Personal hearing was issued to the applicants vide letter F.No.V(15) Reb-100/2005 dated 28.09.2005 for submitting the duty payment certificate in tamper proof sealed cover from the jurisdictional Range Superintendent. After due process of law Assistant Commissioner (Rebate), Central Excise, Mumbai-I rejected the rebate claims of the applicant on the grounds that they failed to submit the duty payment certificate in tamper proof sealed cover and as such the duty paid character of the goods exported could not be established.

3. Being aggrieved by the said order-in-original, applicant filed appeal before Commissioner (Appeals) who upheld the impugned order and rejected the appeal filed by the applicants.

4. Being aggrieved by the impugned order-in-appeal, the applicant has filed this revision application under Section 35 EE of Central Excise Act, 1944 before Central Government on the following grounds:

4.1 The Applicants are manufacturer exporters. The goods exported are processed in their premises and exported under ARE1s after debiting the

appropriate duty payable. The applicants submit herewith the three duty payment certificate in respect of following ARE1s:

<u>Sr.No.</u>	<u>ARE1 No.</u>
1.	695/2004-05 dated 21.01.2005
2.	694/2004-05 dated 21.01.2005
3.	675/2004-05 dated 03.02.2005

The applicants are having the sealed envelope of these ARE1s. They could not submit the same as they did not get the opportunity of Personal Hearing.

4.2 The applicants state and submit that they prepare five copies of ARE1. Out of that original and duplicate copies of the ARE1 and duplicate copy of the Central Excise Invoice move along with the goods taken by the transporter. The third copy and fourth copy handed over to the Jurisdictional Central Excise Officer for authentication of duty payment certificate, information of export and returning the triplicate after due authentication in the tamper proof sealed cover to handover to the Maritime Commissioner for claiming rebate. Out of the original and duplicate copy taken by the transporter, these are handed over to the Examiner/Appraiser of Customs along with Shipping Bill, Export Invoice, Packing slip and Bill of lading for certifying valuation and verification of fabrics along with description. After allowing 'Let Export' these packages are taken to Preventive Officer/Supdt. Of Customs for allowing physical clearance of export and allow loading on the ship. After allowing the export the Preventive Officer signs the back side of both copies of the ARE1 showing therein – the Ship's name, Number of packages, date of sailing, Shipping Bill No. & Date, Mate Receipt No. & Date. Then he returns the original copy of the ARE1 to the exporter and duplicate copy in tamper proof sealed cover to handover to Maritime Commissioner for claiming rebate. The Preventive Officer also signs the back of the Shipping Bill showing therein the Ship's name, date of sailing, Mate Receipt No. & Date and Number of packages. The appellant file all these documents along with

the rebate claim application before the Maritime Commissioner for correlation with other documents. If all the documents are tallied then only the rebate is sanctioned and paid to them. But for a small mistake when all other particulars are tallied rejection is nothing but harassment.

4.3 The Applicants are the manufacturer exporter. They are filing monthly returns of manufacture, home clearance and export every month with the Jurisdictional Range Supdt. This is being verified regularly by the Range Supdt. Further all the cenvat verification is being done by the Range regularly. If there is any deficiency in taking the cenvat credit immediately action would have been taken against them. There is no such action against them. The R.G.23A Part-II abstract duty attested by the Range Supdt. itself is the proof that proper duty has been paid.

4.4 The only objection raised in the Order-in-Original is that the applicants have failed to submit the duty payment certificate in tamper proof envelope. In terms of Notification No.19/2004-CE(NT) dated 6.9.2004 as amended issued under Rule 18 of Central Excise Rules, 2002 the triplicate copy of ARE shall be sent to the officers with who claim is to be filed either by post or by handing over to the exporter in tamper proof sealed cover after posting the particulars and the Maritime Commissioner shall compare the original copy received from the exporter with the triplicate copy received from the Central Excise office and shall sanction the refund claim if found in order. The main purpose of triplicate copy of ARE1 in sealed cover duly certified by the Range Supdt. is to prove the duty paid characteristic of the exported goods. The applicants have submitted the triplicate copy of the ARE1s along with the rebate claims.

4.5 The triplicate copy of the ARE1s submitted to the Range Supdt. within the stipulated period i.e. 24 hours of export. The Range Gupdt. after due verification and by certifying the triplicate copy, returned the Triplicate copy of ARE1s in tamper proof sealed covers to the applicants. The appellants have filed all these ARE1s along with their rebate claims when

they file with the Assistant Commissioner (Rebate). They have also filed Shipping Bill, Bill of Lading, Export Invoice, Mate Receipt, Original and Duplicate copy of ARE1s for compare and sanction of rebate claim. They have also filed the duty payment certificate duly issued by the Range Supdt in original. The Officer signed on the triplicate copy of the ARE1s submitted in sealed cover and duty payment certificates are one and the same. The applicants have paid proper duty at the time of clearance from the place of manufacture. The applicants have debited the duty at the time of clearance and there is no dispute of the duty payment at the time of export on the finished fabrics. They have also submitted duty payment certificate again by way of extract of R.G.23A Part-II duly attested by the Range Supdt. The goods exported has suffered proper duty and also the Jurisdictional Officers have certified the same. The applicants state and submit that they have also received the foreign remittances in this case.

**Case laws relied upon by the applicant:**

- 2005(186) ELT100 (Tr.Mumbai) – Prachi Poly Products Ltd. vs. CCE, Raigad
- 2005(184) ELT397 (Tr.Delhi) – CCE, Jalandhar Vs. Aggarwal Iron Industries
- 2005(191) ELT899 (Tr.Delhi) – Parasrampuriah Synthetics Ltd. vs. CCE, Jaipur
- 2005(192) ELT216 (Tr.Bangalore) – Chandana Plastics Ltd. vs. CCE, Visakhapatnam
- GOI order 2001 (131) ELT726

5. Personal hearing schedule in this case on 12.10.12. Shri R.V.Shetty, Advocate appeared on behalf of the applicant who reiterated the grounds of revision application.

6. Government has carefully gone through the relevant case records and perused the impugned the impugned orders-in-original and orders-in-appeal.

7. On perusal of records Government observes that the original authority rejected the claim of the applicant on the ground that they failed to submit the required duty paying document in tamper proof sealed cover from the Jurisdictional Range Superintendent. He found that though they submitted the photocopies of the RG-23A Pt.II abstract, in the wake of the fraud committed by the textile manufacturer/exporter regarding availment of cenvat credit on the basis of invoices issued by fake/bogus/non-existent firms it was not clear whether the cenvat credit availed by the manufacturer was proper or otherwise. He observed that the applicant had given ample opportunity of Personal Hearing but they did not avail the same, hence he decided the case on merit. Commissioner (Appeals) too observing that the applicants have failed to submit the requisite duty payment certificate from the Range Supdt thus failed to substantiate their claim in respect of duty paid character of the goods exported, held the claim inadmissible and upheld the impugned O.I.A. Now the applicants have filed this revision application on the ground stated at para 4 above They mainly submitted that the goods were cleared under the ARE 1 and Central Excise invoice and the duty payment certificate have been verified by the Range Supdt. The triplicate copy of the ARE1s are submitted to the Range Supdt. within the stipulated period i.e. 24 hours of export. The Range Supdt. certified the triplicate copy of ARE 1s in tamper proof sealed cover to the applicants, which were filed before the Assistant Commissioner (Rebate). The goods exported have suffered proper duty and also the Jurisdictional officers have certified the same. They have also submitted duty payment certificates issued by Jurisdictional Supdt. There is no allegation against this and all these documents are proper and correct. They pleaded that the Commissioner

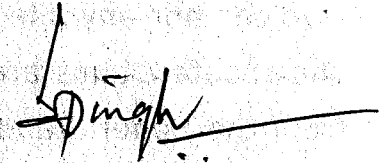
(Appeals) should have verified the findings of the Assistant Commissioner whether it was proper or not.

8. Government notes that in this case there is neither an allegation about wrong availment of cenvat credit on the basis of forged or invalid invoices nor any allegation that suppliers of grey fabrics were non-existent. The rebate claims are rejected on the ground that duly payment certificate from the Superintendent Central Excise Range was not submitted. There is no dispute about the export of goods or compliance of conditions/procedure as laid down in Notification No.19/04-CE (NT) dated 6.9.04 for claim rebate of duty under Rule 18 of Central Excise Rules 2002. Applicant has stated that he is having valid duty payment certificates in respect of exports pertaining three ARE-I 675/04-05 dated 3.2.05, 694/04-05 dated 21.1.05 and 695/04-05 dated 21.1.05 which could not be submitted earlier as no hearing was attended by him. He has submitted copies of said certificates F.No.AR-IV/DPC/E.No.5,6 & 7 all dated 15.6.2006 signed by Inspector and Superintendent Central Excise Range-IV, Division-III, Surat-I. These certificates clearly state that duty was paid on goods exported vide said 3 ARE-I forms. Since applicant has procured the said duty payment certificates, case is required to be remanded back for fresh consideration. Government also notes that applicant has filed another revision application No.195/256/11-RA against order-in-appeal No.M.I/RKS/15/2011 dated 7.1.11 passed by CCE (Appeals), Mumbai-I. In the said order-in-appeal it is mentioned that an alert circular was issued by ACCE, Boisar-II, Thane-II on 13.4.05 in which it was stated that the rebate claims filed by Satya International should be withheld as their credentials were under cloud for availing credit on fake/bogus invoices. The outcome of investigations conducted in the matter is also required to be taken into account before finalising the claim.

9. In view of above position, Government sets aside the impugned orders and remands the case back to original authority for denovo consideration of matter in the light of above observations.

10. The revision application is disposed of in terms of above.

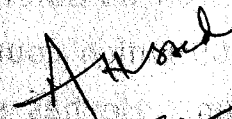
16. So ordered.



(D.P.Singh)

Joint Secretary (Revision Application)

**M/s Satya International**  
**Plot No.435, Opposite Pratibha Dyeing**  
**GIDC, Pandesara Road**  
**Surat-394221**



**K. रामेश्वराम K. RAMESHWARAM**  
**विशेष कार्य अधिकारी (OSD-II) (RA)**  
**वित्त मंत्रालय, (राजस्व विभाग)**  
**Ministry of Finance (Dept. of Rec.)**  
**भारत सरकार/Govt. of India**  
**नई दिल्ली / New Delhi**



ATTESTED

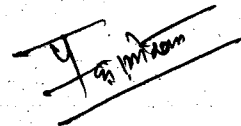
G.O.I. Order No.

1647

dated 05-12-2012

Copy to:-

1. Commissioner of Central excise, Mumbai-I, 115, New Central Excise Building, K.K.Road, Opposite Churchgate Station, Mumbai-400020.
2. Commissioner (Appeals), Central Excise Mumbai-I, Meher Building, Bombay Garage, Dadishet Lane, Chowpatty, Mumbai-400007.
3. The Assistant Commissioner of Central Excise (Rebate), Mumbai-1 Commissionerate Meher Building, Bombay Garage, Dadishet Lane, Chowpatty, Mumbai-400007.
4. Shri R.V.Shetty, Advocate, 101, Sterling Court, 'E' - Wing, Opp. Maheshwari Nagar, Orkay Mill Road, MIDC, Andheri (E), Mumbai-400093.
4. Guard File.
5. PS to JS (RA)
6. Spare Copy



(P.K.Rameshwaram)  
OSD (Revision Application)

