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GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
8th Floor, World Trade Centre,
Centre - I, Cuffe Parade,
Mumbai-400 005

F.No.195/1263/13-RA / 20

Date of Issue 05-06-2018

ORDER NO. 166 /2018-CX (WZ) / ASRA / MUMBAI/ DATED 29-05-2018 OF THE GOVERNMENT OF INDIA PASSED BY SHRI ASHOK KUMAR MEHTA , PRINCIPAL COMMISSIONER & EX-OFFICIO ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA, UNDER SECTION 35EE OF THE CENTRAL EXCISE ACT, 1944.

Applicant : M/s. United Phosphorus Ltd. Mumbai.

Respondent : Commissioner of Central Excise, Customs and Service Tax, Raigad Commissionerate.

Subject : Revision Application filed, under Section 35EE of the Central Excise Act, 1944 against the Order-in-Appeal No. US/447/RGD/2012 dated 12.07.2012 passed by the Commissioner (Appeals-II), Central Excise, Mumbai.

ORDER

The instant Revision Application is filed by M/s. United Phosphorus Ltd., Mumbai (hereinafter referred to as "the applicant") against the Order-in-Appeal No. US/447/RGD/2012 dated 12.07.2012 passed by the Commissioner (Appeals-II), Central Excise, Mumbai.

2. The issue in brief is that the applicant a Manufacturer Exporter had filed a Rebate Claim under the provisions of Rule 18 of Central Excise Rules 2002 read with Notification No.19/2004-CE(NT) dated 06.09.2004 in respect of goods exported by them. The Adjudicating Authority vide Orders in Original No. 1778/10-11 dated 25.01.2011, 1779/10-11 dated 25.01.2011 and 1853/10-11 dated 31.01.2011 sanctioned the said rebate claims.

3. Being aggrieved, the department filed appeal before Commissioner (Appeals) Mumbai-II on the grounds that the value of the goods shown in relevant ARE-1 is higher than the FOB value shown in the Shipping Bills, hence the sanction rebate of such excess payment was in violation of Rule 18 of Central Excise Rules 2002. Commissioner (Appeals) vide Order in Appeal No. US/515-517/RGD/11 dated 30.12.2011 decided the case in favour of department.

4. The applicant were issued three protective demand cum show cause notice all dated 27.06.2011 proposing recovery of erroneously sanctioned rebate of Rs. 6,073/- (Rupees Six Thousand and Seventy Three only) sanctioned vide Order in Original No. 1778/10-11 dated 25.01.2011, Rs.2,41,928/- (Rupees Two Lakh Forty One Thousand Nine Hundred and Twenty Eight only) sanction vide Orders in Original No. 1779/10-11 dated 25.01.2011 and Rs.1,18,024/- (Rupees One Lakh Eighteen Thousand and Twenty Four only) sanctioned vide Order in Original No. 1853/10-11 dated 31.01.2011, alongwith applicable interest under the provisions of Section 11 A(1) of Central Excise Act, 1944.

5. Additional Commissioner, Central Excise, Raigad vide Order in Original No. Raigad/ADC/185-187/11-12 dated 14.02.2012 confirmed demand of erroneously sanctioned rebate amount of Rs. Rs. 6,073/- Rs.2,41,928/- and Rs.1,18,024/-with interest.

7. Being aggrieved by the aforesaid Order-in-Original, the applicant filed appeal before Commissioner of Central Excise (Appeals-II) Mumbai who vide Order in Appeal No. US/447/RGD/2012 dated 12.07.2012 upheld the Order in Original No. Raigad/ADC/185-187/11-12 dated 14.02.2012 and rejected applicant's appeal.

8. Being aggrieved with the impugned Order-in-Appeal, the applicant filed the present Revision Application (bearing No. 195/1263/13-RA) against Order in Appeal No US/447/RGD/2012 dated 12.07.2012 under Section 35 EE of the Central Excise Act, 1944 before the Central Government on various Grounds mentioned therein.

9. A personal hearing in the matter was fixed on 22.05.2018. Shri Ajit Pitale, Dy. General Manager of the applicant appeared for the personal hearing and requested to withdraw their instant Revision Application in view of their submissions dated 22.05.2018.

10. The applicant vide its submissions dated 21.05.2018 informed that they had refunded excess refund of Rs. 3,66,025/- [Rs. 6073/ + Rs.2,41,928/ + Rs. 1,18,024/] (Rupees Three Lakh Sixty Six Thousand and Twenty Five only) with applicable interest and submitted the copies of G.A.R.-7 Challans dated 10.03.2015 evidencing the payment of the said dues along with the interest. In view of the same the applicant requested to close the matter.

11. Government observes that that the applicant had filed instant Revision Application against Order in Appeal No US/447/RGD/2012 dated 12.07.2012 which upheld Additional Commissioner, Central Excise, Raigad's Order in Original No. Raigad/ADC/185-187/11-12 dated 14.02.2012 confirming demand of erroneously sanctioned rebate amount of Rs. 6,073/-,

Rs.2,41,928/- and Rs.1,18,024/-with interest. Government further observes that the dues as above confirmed by the Additional Commissioner, Central Excise, Raigad stand paid by the applicant vide G.A.R.-7 Challans dated 10.03.2015 which tantamounts to acceptance of Order in Appeal No US/447/RGD/2012 dated 12.07.2012 and thereby rendering the instant Revision Application infructuous.

12. In view of the above , the Revision Application is dismissed as devoid of merits.

13. So, ordered.

Ashok Kumar Mehta
29.5.2018

(ASHOK KUMAR MEHTA)
Principal Commissioner & Ex-Officio
Additional Secretary to Government of India

ORDER No. /2018-CX (WZ) /ASRA/ DATED 2018

To,
M/s United Phosporus Ltd.,
Readymoney Terrace, 167,
Dr. A.B. Road, Worli,
Mumbai 400 018.

Copy to:

1. The Commissioner, CGST & Central Excise Commissionerate, Belapur.
2. The Commissioner (Appeals), CGST & Central Excise, Raigad.
3. The Deputy Commissioner (Rebate), CGST & Central Excise, Belapur
4. Sr. P.S. to AS (RA), Mumbai.
5. Guard File.
6. Spare Copy.