

SPEED POST



F.No. 195/39/2018-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...03/8/21.....

Order No. 172/2021-CX dated 03/08/2021 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 Applications filed under section 35
EE of the Central Excise Act, 1944 against the
Order-in-Appeal No. 54/HWH/XAP-12 &
13/2017-18 dated 16.03.2018 passed by the
Commissioner of CGST & Central Excise,
Kolkata-North Commissionerate, Kolkata.

Applicants : M/s. Skipper Ltd., Howrah.

Respondent : The Commissioner of Central Excise & CGST,
Howrah.

ORDER

A revision application no. 198/39/2018-RA dated 25.07.2018 has been filed by the Commissioner of Central Excise & CGST, Howrah (hereinafter referred to as the Applicant) against Order-in-Appeal No. 54/HWH/XAP-12 & 13/2017-18 dated 16.03.2018, passed by the Commissioner of CGST & Central Excise, Kolkata-North Commissionerate, Kolkata. The Commissioner, vide the impugned Order-in-Appeal, has rejected the appeals filed by the Applicant herein against Orders-in-Original No. 363/Skipper/Rebate/HWH/16-17 and 365/Skipper/Rebate/HWH/16-17; both dated 07.11.2016 passed by the Deputy Commissioner, Central Excise, Howrah-IV Division, Kolkata-II (Now, Deputy/Assistant Commissioner, Sankrail Division, Howrah CGST Commissionerate), vide which the rebate claims filed by the applicant herein were allowed.

2. Brief facts of the case are that the Respondents, M/s Skipper Ltd., Howrah, filed two rebate claims amounting Rs. 2,37,525/- and Rs. 2,51,862/- for claiming rebate of excise duty paid on excisable goods, namely, "Hot Dipped Galvanized Transmission Parts", falling under Chapter 73 of Central Excise Tariff act, 1985, through their CENVAT account, under Rule 18 of the Central Excise Rules, 2002 read with Notification no. 19/2004-CE(NT) dated 06.09.2004. The rebate claims were sanctioned by the original authority vide two separate orders dated 07.11.2016. Aggrieved, the Applicant filed appeals before the Commissioner (Appeals),

who, vide order dated 16.03.2018, upheld the Orders-in-Original.


3. The instant revision application has been filed, mainly, on the ground that the Respondents have not submitted BRCs in respect of the said exports and since realization of export proceeds is a mandatory requirement for sanction of rebate, the original and appellate authorities should not have sanctioned the rebate to the Respondents. A written reply dated 24.11.2018 has been filed by the Respondent.

4. Personal hearing was held on 28.07.2021, in virtual mode. None appeared for the Applicant department. However, a letter dated 26.07.2021 has been received stating that the department has nothing further to add in the matter. Sh. A. K. Das, Consultant, appeared for the Respondents and reiterated the contents of the reply dated 24.11.2018.

5. The Government has examined the matter. It is observed that Rule 18 of the Central Excise Rules, 2002 and the relevant notification no. 19/2004-CE (NT) dated 06.09.2004 do not prescribe realisation of export proceeds and submission of BRCs, to evidence the same, as a condition precedent to the sanction of rebate claim. Hence, the Applicant's contention that rebate should have been denied to the Respondents, solely on this count, is not sustainable. This view is supported by the judgment of the Hon'ble Allahabad High Court in the case of Jubilant Life Sciences Ltd. vs. Union of India {2016 (341) ELT 44 (ALL)}. Identical view has been taken by the Government earlier in

the case of M/s Salasar Techno Engineering Pvt. Ltd. {2018 (264) ELT 1143 (GOI)}, Order No. 66/2021-CE dated 31.03.2021 in the case of M/s Taurus Agile Technology Co. Pvt. Ltd., Delhi, Order No. 96/2021-CE dated 10.05.2021 in the case of M/s Jindal India Ltd., Howrah and Order No. 97/2021-CX dated 11.05.2021 in the case of M/s SNG Metals Pvt. Ltd., Faridabad.

6. In view of the above, the revision application is rejected.


(Sandeep Prakash)

Additional Secretary to the Government of India
The Commissioner of CGST & Central Excise,
Howrah Commissionerate, M. S. Building,
15/1, Strand Road, Kolkata-700001.

G.O.I. Order No. 172/21-CX dated 3-8-2021

Copy to: -

1. M/s Skipper Ltd. (Unit-BCTL), NH-6, Jalan Industries Complex, Jangalpur, Andul Mouri, Howrah-711 302.
2. The Commissioner of CGST & Central Excise, Kolkata-North Commissionerate, GST Bhawan, Room No. 254, 180 Shantipally, Rajdanga Main Road, Kolkata-700107.
3. Sh. A. K. Das, Consultant, FD-469/2, salt Lake, Kolkata-700 106.
4. P.S. to A.S. (Revision Application).
5. Guard File.

~~6~~ Spare Copy.

ATTESTED
(Ashish Tiwari)

Assistant Commissioner (RA)