

**SPEED POST**



**F. No. 195/217/2018—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. 05/8/21.....

Order No. 174/2021-CX dated 04-08-2021 of the Government of India, passed by Shri 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. 89/Kol-III/2018 dated 10.07.2018 passed by Commissioner, CGST & CX (Appeals-I), Kolkata.

Applicant: M/s Gopal Fencing, Kolkata.

Respondent: Commissioner of CGST & CE, Kolkata North.

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**ORDER**

A Revision Application No. 195/217/2018-R.A. dated 01.11.2018 has been filed by M/s Gopal Fencing, Kolkata (hereinafter referred to as Applicants) against Order-in-Appeal No89/Kol-III/2018 dated 10.07.2018 passed by Commissioner, CGST & CX (Appeals-I), Kolkata, wherein the appeal filed by the Assistant Commissioner, CE, Khardah Division, Kolkata-III (Respondent) against Order-in-Original No. CE/KDH/AC-347(R)/15-16 dated 30.07.2015, passed by Assistant Commissioner, CE, Khardah Division, Kolkata-III, has been allowed.

2. The brief facts leading to the present proceedings are that the applicant filed rebate claims, for an amount of Rs. 1,64,319/-, in respect of duty paid on the goods exported by them, under Notification No. 19/2004-CE(NT) dated 06.09.2004 read with Rule 18 of Central Excise Rules, 2002 and Section 11B of Central Excise Act, 1944. The rebate claim was sanctioned by the original authority vide the aforesaid Order-in-Original dated 30.07.2015. On review, an appeal was filed by the department before the Commissioner (Appeals) on the grounds that the Applicant had cleared the subject exported goods as normal domestic products to a merchant exporter, M/s Him Overseas, who actually exported the goods; that the details in the documents submitted evidencing the said exports did not cross-tally; that the merchant exporter should have informed the jurisdictional central excise authorities about the storage of the goods and got them sealed by the excise authorities prior to export. The Commissioner (Appeals), vide the impugned Order-in-Appeal dated 10.07.2018, allowed the appeal. The instant revision application has been filed on the grounds that the order of the Commissioner (Appeals) should be set aside as opportunity of personal hearing was not granted to them which is denial of principle of natural justice and that the goods were duly exported vide proper ARE-1s after payment of duty from RG 23A Pt- II. The department filed written submissions on 09.07.2021.

3. Personal hearing was held on 03.08.2021, in virtual mode. Sh. Rajesh Kumar Ball, Proprietor, appeared for the Applicants and reiterated the contents of the revision application. Sh. G. C. Das, Superintendent, appeared for the Respondent and highlighted that the Shipping Bills do not indicate the ARE-1s submitted by the Applicants. Hence, proof of export cannot be accepted.

4. The Government has examined the matter. It is evident that four opportunities were granted by the Commissioner (Appeals) to the Applicants to present their case in person, but the Applicants did not appear for personal hearing. Thus, there appears to have been no denial of principles of natural justice, as alleged by the Applicant. It is further observed that the discrepancies pointed out by the lower authorities in the document submitted by the Applicants are so extensive and pervasive that these cannot be overlooked. The identity of the exported goods cannot be established in these circumstances. Hence, the order of the Commissioner (Appeals) does not merit any revision.

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

  
(Sandeep Prakash)

Additional Secretary to the Government of India

M/s Gopal Fencing, Nabapally,  
Muragacha, P.O. Jugberia,  
Kolkata-700 110.

G.O.I. Order No. 174/21-Cx dated 4-8-2021

Copy to :-

1. The Commissioner, CGST & CE, Kolkata North.
2. Commissioner (Appeals), CGST & CX, Kolkata.
3. PA to AS (Revision Application)

4. Spare Copy

5. Guard Files,

ATTESTED

  
(Ashish Tiwari)

Assistant Commissioner (R.A.)