

**SPEED POST**



F.No. 198/01/2019-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..12/8/21...

Order No. 177/2021-CX dated 11-08-2021 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 Nos. 468/RAN/2018 dated 30.10.2018 passed by the Commissioner (Appeals), CGST & Central Excise, Ranchi.

Applicants : The Pr. Commissioner of CGST & Central Excise, Ranchi.

Respondent : M/s Jindal Steel & Power Ltd., Ramgarh.

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## ORDER

A revision application no. 198/01/2019-R.A. dated 15.01.2019 has been filed by Principal Commissioner, CGST & Central Excise, Ranchi (hereinafter referred to as the Applicant) against the Order-in-Appeal no. 468/RAN/2018 dated 30.10.2018 passed by the Commissioner (Appeals), CGST & Central Excise, Ranchi. The Commissioner (Appeals) has, vide impugned Order-in-Appeal, set aside Order-in-Original No. 01/Refund/DC/CE/Rmg.Div./2018-19 dated 02.05.2018 passed by the Deputy Commissioner, CGST & Central Excise Division, Ramgarh, vide which the Deputy Commissioner had rejected the rebate claim amounting to Rs. 9,34,56,061/- filed by M/s Jindal Steel & Power Ltd., Ramgarh (hereinafter referred to as the Respondent).

2. Briefly stated, the Respondent herein, had filed a refund/rebate claim under Rule 18 of the Central Excise Rules, 2002 read with Notification No. 19/2004-CE (NT) dated 06.09.2004 in respect of Central Excise Duty paid on clearance of excisable goods exported to foreign country, during the period January 2016 to March 2016. The original authority rejected the rebate claim on several grounds. The appeal filed by the Respondent herein was allowed by the Commissioner (Appeals) with consequential relief. The revision application has been filed by the Applicant department on the ground that 2576.415 MT of goods were exported after six months of clearance from the factory, which is in contravention of the requirement of Para 2(b) of Notification No. 19/2004-CE (NT) dated 06.09.2004. A cross objection dated 19.07.2019, has been filed by the Respondent.

3. Personal hearing in the matter was held, in virtual mode, on 03.08.2021. The representative of the department requested for adjournment to verify the documents from the original records. Accordingly, the hearing was adjourned to 10.08.2021. In the

hearing held on 10.08.2021, in virtual mode, Sh. Akash Singla, DC appeared for the Applicant department. He pointed out certain endorsements on the ARE-1 Nos. 364, 365, & 366 dated 25.01.2016, 28.01.2016 & 28.01.2016, respectively, which indicate that the goods corresponding to those endorsements crossed border in the month of August, 2016 i.e. more than 06 months after the date of removal from factory. In reply, Ms. Tuhina Srivastav, Advocate submitted that subject exports were covered under Bills of Export No. 5523686 dated 28.01.2016 and 5628079 dated 02.02.2016, which clearly show that all consignments crossed border within the period of six months. In the interim, the Respondents have filed written submissions dated 03.08.2021, which are taken on records.

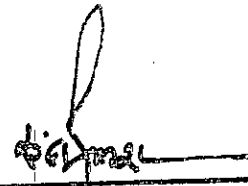
4. The Government has carefully examined the matter. Only issue that has been raised for consideration in the RA is that 2576.415 MT of goods were exported after 06 months of clearance from the factory of the Respondent which is in contravention of condition stipulated in Para 2(b) of the Notification No. 19/2004-CE (NT) dated 06.09.2004. Para 2(b) reads as under:

*"(b) the excisable goods shall be exported within six months from the date on which they were cleared for export from the factory of manufacture or warehouse or within such extended period as the Commissioner of Central Excise may in any particular case allow;"*

It is observed that the subject excisable goods were removed for export from the factory of the Respondent against ARE-1 Nos. 364 dated 25.01.2016, 365 dated 28.01.2016 & 366 dated 28.01.2016. It is evident from the revision application and from the personal hearing held on 10.08.2021, that the Applicant department has filed the instant RA, since the month in some of the dates hand written by the Customs Officer at LCS, Jogbani can be read as "08" (i.e. August) and not "02" (i.e. February). Therefore, taking the date of export as falling in the month of August, 2016, department has pleaded that the exports were made beyond six months from the date of removal from the factory in January, 2016. In reply, the Respondents have pointed out that the subject exports are covered under Bills of Export

Nos. 5523686 dated 28.01.2016 and 5628079 dated 02.02.2016 which show that all consignments crossed border within the period of six months. This position has not been disputed by the Respondent department. From the electronic copies of the said Bills of Export placed on the record by the Respondent, it is evident that the exports against Bill of Export No. 5523686 dated 28.01.2016 have taken place over the months of February to April 2016 whereas those against Bill of Export No. 5528079 dated 02.02.2016 have taken place over February to March, 2016. In this background, the allegation that 2576.415 MT of goods were exported after six months of clearance from factory, in contravention of Para 2(b) of the Notification No. 19/2004-CE (NT), is not made out. In these facts and circumstances, the Government does not find any infirmity in the impugned Order-in-Appeal.

7. The revision application is rejected.



(Sandeep Prakash)

Additional Secretary to the Government of India

The Commissioner of CGST & Central Excise,  
Central Revenue Building, 5, Main Road,  
Ranchi – 834 001.

G.O.I. Order No. (77)/21-CX dated 11-08-2021

Copy to: -

1. M/s Jindal Steel & Power Limited, P.O. Balkudra, Patratu, Ramgarh, Jharkhan – 829 143.
2. The Commissioner (Appeals), CGST & Central Excise, 2<sup>nd</sup> & 3<sup>rd</sup> Floor, Grand Emerald, Ashok Nagar, Argora Road, Ranchi – 834 002.
3. Ms. Tuhina Sinha, Advocate, TLC Legal, 7<sup>th</sup> Floor, Mohan Dev Building, Tolstoy Marg, Connaught Place, New Delhi – 110 001.
4. P.S. to A.S. (Revision Application).
5. Guard File.
6. ✓ Spare Copy

ATTESTED

*Gulshan Bhatia*  
12/12/2021

**GULSHAN BHATIA**  
Superintendent