

REGISTERED  
SPEED POST



F.No. 195/258-262/2017-R.A.  
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.....17/4/18

ORDER NO. 180-184/2018-CE dated 16-4-2018 OF THE GOVERNMENT OF INDIA,  
PASSED BY SHRI R.P.SHARMA, PRINCIPAL COMMISSIONER & ADDITIONAL  
SECRETARY TO THE GOVERNMENT OF INDIA, UNDER SECTION 83 of the Finance  
Act, 1994 read with Section 35EE OF THE CENTRAL EXCISE ACT, 1944.

SUBJECT : Revision Application filed under Section 35EE of the  
Central Excise Act, 1944 against the Order-in-Appeal No.  
43-47(AK)CE/JPR/2017 dated 11.04.2017, passed by the  
Commissioner of Central Excise (Appeals), Jaipur.

APPLICANT : M/s Banswara Syntex Ltd.

RESPONDENT : The Commissioner of Central Excise, Udaipur.

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ORDER

A Revision Application No. 195/258-262/2017 – R.A. dated 17.07.2017 is filed by M/s Banswara Syntex Ltd., Banswara (hereinafter referred to as the Applicant) against the Order—In—Appeal No. 43-47(AK)CE/JPR/2017 dated 11.04.2017, passed by the Commissioner of Central Excise, Jaipur, whereby the Applicant's appeal filed against the Order-In-Original of the Additional Commissioner confirming the recovery of erroneously excess rebate of duty has been rejected.

2. The Revision Application has been filed mainly on the grounds that the Applicant has complied all conditions of Rule 18 of Central Excise Rules, 2002 and Notification No. 19/2004 CE dated 06.09.2004, they are eligible for duty actually paid on the exported goods, the department cannot reassess the duty liability at their end after having it been accepted earlier, the issue under consideration is entirely revenue neutral and the Commissioner(Appeal)'s order is non speaking.

3. Personal hearing was held on 13.04.2018 and it was availed by Shri Keshav Maloo, C.A., for the applicant who reiterated the above stated grounds of revision.

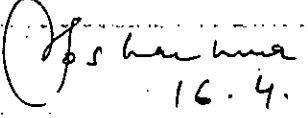
4. The government has examined the matter and it is found from the Revision Application and the Commissioner(Appeal)'s order that the present proceeding is not involving any issue regarding rebate of duty on exported goods and instead the issue involved is relating to recovery of erroneously granted rebate of duty under Section 11A of Central Excise Act. In fact, the issue of rebate of duty on the exported goods subsequent dispute regarding excess grant of rebate of duty on account of overvaluation of the goods was decided long back by various Orders-In-Original passed in 2005 and their appeals before the Commissioner(Appeal) was also rejected. Their Revision Application before the government was also dismissed vide government of India's Order No. 786/2010 – CX dated 27.04.2010 and a writ petition filed before the High Court of Rajasthan at Jodhpur was also dismissed vide Order dated 02.02.2012. Thus, the issue regarding valuation of goods, excess payment of duty on the exported goods and resultant excess payment of rebate of duty to the Applicant is already decided by the government of India long before and

it is upheld by the High Court also. Therefore, the subject of rebate of duty is no more in dispute and the issue is again raised before the government regarding recovery of excess granted rebate of duty only.

5. Under proviso to Section 35B read with Section 35EE of Central Excise Act, 1944, a Revision Application can be filed with the government only if the Order of the Commissioner(Appeal) involves an issue relating to rebate of duty on exported goods, loss of goods or export of goods outside India without payment of duty.

Since no such issue is involved in the present case and recovery of the amount under Section 11A of the Central Excise Act against erroneously refunded duty is entirely different from the subject of rebate of duty, the government is of the clear view that it does not have jurisdiction to revise the above referred Commissioner(Appeal)'s Order. The principle of *Resjudicata* is also attracted in this case as the issue regarding admissibility of rebate and recovery of erroneously granted rebate amount is already decided earlier by the government of India and the honorable High Court of Rajasthan as mentioned above.

6. Accordingly, the Revision Application is rejected.

  
16.4.18

(R.P. Sharma)

Additional Secretary to the Government of India


M/s Banswara Syntex Ltd.,  
Industrial Area, Dahod Road,  
Banswara - 327001, Rajasthan

ORDER NO.130-184/13-Cx dated 16-4-2018

Copy to: -

1. The Commissioner of Central Excise, 142-B, Hiran Magri, Sector-11, Near Shahi Bagh, Udaipur-313002. (Rajasthan)
2. The Commissioner of Customs & Central Excise (Appeals), NCR Building, C-Scheme, Jaipur -302005.
3. The Additional Commissioner of Central Excise & Service Tax, Jaipur-II, NCR Building, C-Scheme, Jaipur -302005.
4. PA to AS(RA)
5. Guard File
6. Spare copy

ATTESTED

  
16.4.2018

(Debjit Banerjee)  
S.T.O. (RA)