

SPEED POST



**F. No. 195/218/2018—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. 24/8/21.....

Order No. 184/2021-CX dated 23-8-2021 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. 157/HAL/XAP-17,16,31/2017-18 dated 21.05.2018 passed by Commissioner (Appeals), Kolkata.

Applicant: M/s Ludlow Jute & Specialities Limited, Kolkata.

Respondent: Commissioner of CGST & Central Excise, Haldia.

ORDER

A Revision Application Nos. 195/218/2018-R.A. dated 15.11.2018 has been filed by M/s Ludlow Jute & Specialities Limited, Kolkata (hereinafter referred to as the Applicants) against Order-in-Appeal No. 157/HAL/XAP-17,16,31/2017-18 dated 21.05.2018 passed by Commissioner (Appeals), Kolkata, wherein the appeal filed by the Applicants against Orders-in-Original No. R/396/Refund/HWD/2016-17 dated 25.01.2017, R/453/Refund/HWD/2016-17 dated 22.02.2017 and R/70/Refund/HWD/2016-17 dated 06.06.2017 passed by the Deputy Commissioner, Central Excise, Howrah West Division (Now Jangalpur Division), has been rejected.

2. The brief facts leading to the present proceedings are that the Applicants had claimed refund of Jute Cess, amounting to Rs. 13,88,647/-, Rs. 14,01,577/- and Rs. 13,91,579/-. The cess was paid towards export of excisable goods manufactured by them and the rebate was claimed under Section 11B of Central Excise Act, 1944, read with Rule 18 of Central Excise Rules, 2002 and the Notification No. 19/2004-CE(NT) dated 06.09.2004. The said claims were rejected by the original authority on the ground that Jute Cess did not qualify as "duty" as elaborated under Sr. No. (a) to (g) of Notification No. 19/2004-CE(NT) and so rebate of Jute Cess was not admissible. Aggrieved, the Applicants filed appeals before the Commissioner (Appeals), who, vide the impugned Order-in-Appeal, rejected their appeals. Instant revision application has been filed, mainly, on the ground that under Section 3(d) of Jute Manufactures Cess Act, 1983, it is specified that provisions of the Central Excise Act, 1944 and the rules made thereunder, including those relating to refunds and exemption from duty, so far as may be, apply in relation to the levy and collection of the duty of excise on jute manufactures under the said Act; and that therefore the rejection of rebate was erroneous and unjustified.

3. Personal hearing was held on 18.08.2021, in virtual mode. Sh. S. K. Thakur, GM(Taxation), appeared for the Applicants and reiterated the contents of the revision application. Sh. Samarendra Mondal, Assistant Commissioner, appeared for the Respondent and supported the orders of the lower authorities.
4. The impugned Order-in-Appeal was passed on 21.05.2018 whereas the instant revision application has been filed on 15.11.2018. Although the Applicants have not mentioned the date of receipt of the said order, there appears to be an inordinate delay in filing of the revision application. The Applicants have not disclosed any reasons, let alone sufficient cause, which prevented them from presenting the application within a period of three months from the date of communication of the Order-in-Appeal, as per Section 35 EE of the Central Excise Act, 1944. Hence, the instant revision application is liable to be rejected as time-barred.
5. On merits, it is observed that Rule 4 of the Jute Manufactures Cess Rules, 1984, enacted under sub-section (1) of Section 6 of the Jute Manufactures Cess Act, 1983, stipulates that no refund of cess shall be allowed on jute manufactures exported from India. Thus, the parent legislation itself prohibits any refund of Jute Cess. As such, the order of the Commissioner (Appeals) does not warrant any interference.
6. In view of the foregoing, the revision application is rejected.

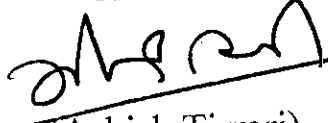

(Sandeep Prakash)

Additional Secretary to the Government of India

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M/s. Ludlow Jute & Specialities,
KCI Plaza, 23C, "Ashutosh Chaudhury Avenue",
4th Floor, Kolkata-700 019
G.O.I. Order No. 184/21-CX dated 23-8-2021
Copy to:-

1. Commissioner of CGST & Central Excise, Haldia.
2. Commissioner, Central Excise (Appeals), Kolkata.
3. Spare Copy
4. Guard File
5. P.S. to A.S. (R.A.)

ATTESTED



(Ashish Tiwari)

Assistant Commissioner (R.A.)