

REGISTERED
SPEED POST



F.No. 195/277-A/2015-RA
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... 17/4/18

ORDER NO. ~~185/2018-CX~~ dated ~~16-4-2018~~ OF THE GOVERNMENT OF INDIA, PASSED BY SHRI RAJPAL SHARMA, ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA, UNDER SECTION 35EE OF CENTRAL EXCISE ACT, 1944.

SUBJECT

: Revision Application filed, under section 35EE of Central Excise Act, 1944 against the Order-in-Appeal No. LUD-EXCUS-000-APP-32-15-16 dated 26.05.2015, passed by the Commissioner Central Excise (Appeals), Chandigarh-1.

APPLICANT

: M/s-Puneet Exports Inc.

RESPONDENT

: The Commissioner of Central Excise, Ludhiana

ORDER

A Revision Application No. 195/277-A/2015-RA dated 09.09.2015 has been filed by M/s Puneet Exports Inc., 483/1, Gali No. O, Janakpuri, Ludhiana (hereinafter referred to as the applicant) against the Order-In-Appeal No. LUD-EXCUS-OOO-APP-32-15-16 dated 26.05.2015, passed by the Commissioner Central Excise (Appeals), Chandigarh-1, whereby the appeal of the applicant against the order in original issued by the Additional Commissioner of Central Excise has been rejected.

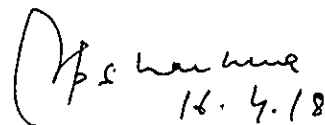
2. The brief facts of the case are that the applicant had filed rebate claims for Rs. 50,25,253/- under Rule 18 of the Central Excise Rules and the same were sanctioned by the jurisdictional Assistant/ Deputy Commissioner of Central Excise. However, subsequent investigation conducted by the Preventive wing of the Central Excise Commissionerate revealed that the applicant had availed CENVAT Credit of Rs. 87,44,929/- fraudulently and the rebated duty of Rs. 50,25,253/- had been paid from the wrongly availed CENVAT Credit only. As a result, it was realised that the applicant had availed rebate of duty erroneously and accordingly a show cause notice for recovery of refunded duty amount was issued under section 11A the Central Excise Act and a penalty under section 11AC was also proposed. The Additional Commissioner, vide his Order-In-Original dated 20.03.2012, ordered to recover the erroneously refunded duty under section 11A alongwith interest and also imposed penalty of Rs. 50,25,253/- under section 11AC of the Central Excise Act. The first appeal filed by the applicant before Commissioner (Appeal) was also rejected vide above mentioned order in appeal. Being aggrieved, the applicant has filed the present Revision Application before the Government mainly on the ground that they had availed CENVAT Credit correctly and they had exported goods on proper payment of Central Excise duty only.

3. A personal hearing was offered on 22.03.2018 and 12.04.2018 but no one appeared for the applicant. No reason for non-avilment of hearing is also informed and no request for any other date of hearing is received from which it implicit that the

applicant is not interested in availing hearing. However, the Deputy Commissioner of GST Division, Ludhiana, vide his letter dated 21.03.2018, opposed the Revision Application mainly on the ground that the amount against erroneously refunded duty is maintainable in this case as these goods had been exported by the applicant by utilising the inadmissible CENVAT Credit.

4. On examination of the Revision Application and the Orders issued by the lower authorities, it is evident to the Government that the Revision Application involves the issue regarding demand/recovery of erroneously refunded duty amount under section 11 A of the Central Excise Act and imposition of penalty under section 11AC of the Central Excise Act. Further the Centre of dispute in this case is the issue regarding fraudulent availment of CENVAT Credit and wrong utilisation thereof for payment of duty on the final goods. Whereas under Section 35EE of the Central Excise Act, 1944, read with 1st Proviso to Section 35B, the revision application can be filed with the Government only if the Commissioner (Appals)'s Order involves an issue relating to loss of goods, rebate of duty on exported goods or goods exported under bond. Since no such issue regarding rebate of duty governed by section 11B of the Central Excise Act is involved in this case and the Commissioner (Appeals)'s Order is passed upholding demand of duty confirmed by the Additional Commissioner under Section 11A, the Government is of the view that it does not have jurisdiction to deal with the above referred Commissioner (Appeals)'s Order.

5. Accordingly, the revision application is rejected.


16.4.18

(R. P. SHARMA)

ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA

M/s Puneet Exports Inc.,
483 / 1, Gali No. Zero,
Janak Puri, Ludhiana

ORDER NO. 185/2018 -Cx dated 16-4-2018

Copy to:-

1. The Commissioner of the Central Excise, Ludhiana, Central Excise House, 'F' Block, Rishi Nagar.
2. The Commissioner (Appeals) Customs & Central Excise Chd-I, Central Revenue Building, Sector 17-C, Chandigarh.
3. The Ld. Addl. Commissioner, Central Excise Commissionerate, Ludhiana.
4. Mr. Sudhir Malhotra, Advocate, 13-R, Hukum Chand Colony, Near DAV College, Jalandhar.
5. PS to AS(RA)
6. Guard File.

ATTESTED

(Debjit Banerjee)
STO (REVISION APPLICATION)