

REGISTERED  
SPEED POST



F.No.195/167/15-RA, 195/187-189/15-RA  
195/190-193/15-RA  
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... 5/11/18

Order No. 22-29/18-Cx dated 04-01-18 of the Government of India, passed by Shri R.P.Sharma, Principal Commissioner & 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 orders-in-appeal No.138(SLM) CE/JPR/2015 dated 05.03.2015, 158-160(SLM)CE/JPR/2015 dated 17.04.2015 and 154-157(SLM)CE/JPR/2015 dated 17.04.2015 passed by the Commissioner (Appeals) Jaipur-I

Applicant : M/s Castex Technologies Ltd., Bhiwadi

Respondent : Commissioner of Central Excise & Customs, Jaipur-I

\*\*\*\*\*

**ORDER**

Eight revision applications F.No.195/167/15-RA dated 25.6.15, 195/187-189/15-RA dated 16.7.15 and 195/190-193/15-RA dated 16.7.15 are filed by M/s Castex Technologies Ltd., Bhiwadi (hereinafter referred to as the applicant) against the Orders-in-Appeal No.138(SLM)CE/JPR/2015 dated 05.03.2015, 158-160(SLM)CE/JPR/2015 dated 17.04.2015 and 154-157(SLM)CE/JPR/2015 dated 17.04.2015, passed by the Commissioner of Central Excise (Appeals), Jaipur-I, who has upheld the Assistant Commissioner's Order partially rejecting the applicant's rebate claims and rejected the applicant's appeals before him.

2. The revision applications are filed mainly on the following grounds:

- (i) The applicant had claimed rebate of duty of Rs.2984909/- against the export of duty paid goods under 29 ARE-1s out of which rebate of Rs.2008558/- relating to 15 ARE-1s was sanctioned. However, in regard to remaining 14 ARE-1s No.151, 119,145,168,179,176,154,156, 159,174,178,184,163/2012 and 10/2013 rebate of duty was rejected without issuing any show cause notice. Even the Commissioner (Appeals) has not considered the merit of the case and has upheld the order of the Assistant Commissioner without looking into their submissions before him.
- ii) In reference to above 14 ARE-1s, the Assistant Commissioner has observed in his order that the exported goods, turbine housing, have been classified under chapter heading 87089900. Whereas in the corresponding invoices and shipping bills the same have been classified under heading No.73259910 and thus the export of goods cleared from the factory premises has not been established. The Commissioner (Appeals) has also accepted the above finding of the Assistant Commissioner. However, the adjudicating authority and Commissioner (Appeals) have committed an error by concluding non-export of goods merely on the basis of two different chapter headings mentioned in the export documents and by ignoring other evidences such as the goods

were stuffed and sealed in presence of central excise officers who did not find any discrepancy, they have only claimed rebate of duty against the actual duty paid by them as per ARE-1 and excise invoices and the foreign remittances have been received against the export of goods.

---

3. A personal hearing was held in this case on 13.12.17 and it was attended by Mr. M.S.Hasan, Consultant for the applicant, who reiterated the above grounds of revision. However, no one appeared for the respondent.

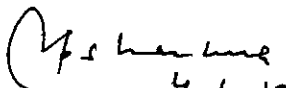
4. On examination of the OIO, the Commissioner (Appeals)'s order and other related documents, the Government finds that no show cause notice was issued to the applicant relating to the rebate of duty in respect of export of goods covered under 14 ARE-1s No.151, 119, 145, 168, 179,176, 154, 156, 159,174, 178, 184, 163/2012 and 10/2013 and the applicant's submission on this point is not discussed by the Commissioner (Appeals) also. Thus the Assistant Commissioner as well as the Commissioner (Appeals) has not followed the principle of natural justice in this case and, therefore, their Orders are vitiated for this reason alone.

---

5. In addition to above, it is found that rebate of duty in respect of above mentioned 14 ARE-1s has been rejected solely on the ground that these 14 ARE-1s and the related shipping bills had different chapter headings and as a result the export of goods is not established. While the applicant has not denied that two different chapter headings were given in ARE-1s and shipping bills, they have pleaded that it has happened due to unintended error and no malafide intention or mis-declaration is on their part. The Government also finds that even if the ARE-1 and shipping bills have two different sub-headings for the exported goods in both the documents, the description of the goods is turbine housing, part No.316431 in all the export documents. Further the gross weight, net weight and the number of goods mentioned in all export documents namely ARE-1s, packing list, shipping bills and export invoices tallies. Moreover, the goods mentioned in all the 14 ARE-1s were cleared for export under the supervision of the Range Officers, the Custom Officer has certified the export of goods and sale proceeds have been received by the applicant from the foreign buyer in U.K. Even the rate of duty under sub-heading 7325 and 8708, which are mentioned in shipping bills and ARE-1s

respectively for classification of the exported goods, is also the same and the rebate of duty is undoubtedly claimed for the amount of central excise duty actually paid by the applicant in respect of the turbine housing. Therefore, apparently no ulterior motive can be attributed to the applicant in mentioning the above two different sub-headings in the export documents and on the face of it the mistake of mentioning two different headings for the same goods is due to unintended error as is claimed by the applicant. When all these facts are considered impartially, the Government does not have any doubt in this case and agrees with the applicant that the goods covered under 14 ARE-1s No.151,119,145,168,179,176,154,156,159,174,178, 184,163/2012 and 10/2013 have also been exported on payment of duty and the applicant is eligible for balance rebate of duty of Rs.976351/- earlier rejected by the Assistant Commissioner.

6. Accordingly, the Commissioner (Appeals)'s Order is set aside and the revision application is allowed.

  
4.1.18  
(R.P.Sharma)

Additional Secretary to the Government of India

M/s Castex Technologies Ltd. (formerly known as Amtex India Ltd.),  
SPA-502, RIICO Industrial Area,  
Phase-IV, Bhiwadi-301019  
Rajasthan

Order No. 22-29/18-Cx dated 04-01-2018

Copy to:

1. Commissioner of Central Excise, Jaipur-I, New Central Revenue Building, "C" Scheme, Jaipur-302505
2. Commissioner of Central Excise & Customs (Appeals), Jaipur-I, New Central Revenue Building, "C" Scheme, Jaipur-302505
3. The Assistant Commissioner, Central Excise Division, Bhiwadi
- ✓ 4. PA to AS(RA)
5. Guard File.
6. Spare Copy

ATTESTED

*Ravi*  
04/01/18

(Ravi Prakash)

OSD (Revision Application)