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GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE

Office of the Principal Commissioner RA and
Ex-Officio Additional Secretary to the Government of India
8th Floor, World Trade Centre, Cuffe Parade,
Mumbai- 400 005

F.No.195/195/14-RA /937 Date of Issue: 04.03.2022

ORDER NO. 221/2022-CX (SZ)/ASRA/MUMBAI DATED 03.3.2022
OF THE GOVERNMENT OF INDIA PASSED BY SHRI SHRAWAN KUMAR,
PRINCIPAL COMMISSIONER & EX-OFFICIO ADDITIONAL SECRETARY TO
THE GOVERNMENT OF INDIA, UNDER SECTION 35EE OF THE CENTRAL
EXCISE ACT, 1944.

Applicant : M/s. Jayavarma Textiles Private Ltd.

Respondent : Pr. Commissioner of GST and Central Excise, Salem.

Subject : Revision Application filed, under Section 35EE of the
Central Excise Act, 1944 against the Order-in-Appeal No.
126/2014 C.E. dated 25.04.2014 passed by Commissioner
(Appeals), Central Excise, Salem.

ORDER

This Revision Application is filed by M/s. Jayavarma Textiles Private Ltd., SF No. 175, Kuruchipudur, Kunnathur to Gobi Main Road, Avinashi TK, Tiruppur District – 638 110 (hereinafter referred to as “the Applicant”) against Order-in-Appeal No.126/2014 C.E. dated 25.04.2014 passed by Commissioner (Appeals), Central Excise, Salem.

2. Brief facts of the case are that the Applicant had filed a rebate claim for Rs.2,72,420/- under Rule 18 of Central Excise Rules, 2002 on account of goods exported by them vide A.R.E.-I No.01 dated 01/08/2013. The rebate sanctioning authority sanctioned the rebate claim vide Order-in-Original No. 106/2013(R) AC/Erode-I Divn. dated 20.12.2013, but appropriated an amount of Rs.1,77,688/- towards outstanding arrears and Rs. 61,287/- towards interest payable on the arrears, in accordance with Board’s Circular No. 967/01/2013-CX dated 01.01.2013. Aggrieved, the applicant filed an appeal which was rejected by the Commissioner (Appeals) vide impugned Order-in-Appeal.

3. Hence, the Applicant filed the impugned Revision Application on the grounds that:

(a) an appeal along with stay application was filed by the applicants on 2.9.2013 against the order in original no. 15/2013-AC dated 7.6.2013; the first hearing was scheduled on 6.1.2014; applicants attended the hearing on 6.1.2014 without seeking any adjournment.

(b) it could be seen from the above that the delay is not on account of the applicants; under such circumstances, the various high courts in many cases have restrained the department from recovering the dues by citing the board's circular 1.1.2013 especially when the stay applications are pending.

In the light of the above submissions, the applicant prayed to issue orders for sanctioning the rebate claimed in cash.

4.1 The applicant had vide letter dated 16.10.2014 forwarded Miscellaneous Order No. 41085/2014 dated 03.07.2014 of CESTAT, Chennai, granting stay on recovery of arrears of applicant in view of appropriation of tax and interest against the rebate sanctioned. Therefore the applicant requested to keep the impugned review application in abeyance till disposal of main appeal by the Hon'ble Tribunal.

4.2 Personal hearing in the case was fixed on 16.02.2022 and was attended online by Shri S. Durairaj, Advocate wherein he informed that a written submission has been made on the matter. Subsequently, vide their letter dated 22.02.2022, the applicant informed that the issue relating to tax arrears had been settled under Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019. Consequently, Hon'ble CESTAT, SZB, Chennai had vide Final Order No.40800/2021 dated 12.02.2021 dismissed the appeal filed by the Applicant.

5. Government has carefully gone through the relevant case records available in case files, oral and written submissions and perused the impugned Order-in-Original and Order-in-Appeal.

6. Government observes that the applicant had filed the impugned revision application for sanctioning the rebate amount in cash. The rebate sanctioning authority had sanctioned cash rebate of Rs.2,38,975/- and re-credit amounting to Rs.33,245/- in the Cenvat account of the applicant. However, the cash rebate was appropriated towards outstanding service tax liability of Rs.1,77,688/- and Rs.61,287/- towards interest liability, of the applicant. Subsequently, the applicant had cleared the outstanding dues under Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 (SVLDRS) and were issued discharge certificate for full and final settlement of tax dues vide Form SVLDRS-4 dated 08.12.2020 for Rs.1,77,688/-. Government observes that the applicant had enclosed the impugned Order-in-Original as

documentary proof towards the payment particulars of outstanding dues in their SVLDRS application.

7. In view of the above discussions, the Revision Application filed by the applicant is dismissed as the matter is resolved.

8. The Revision Application is disposed of on the above terms.

Shrawan
3/3/22
(SHRAWAN KUMAR)

Principal Commissioner & Ex-Officio
Additional Secretary to Government of India.

ORDER No. 221/2022-CX (SZ)/ASRA/Mumbai dated 03.3.2022

To,
M/s. Jayavarma Textiles Private Ltd.,
SF No. 175, Kuruchipudur,
Kunnathur to Gobi Main Road,
Avinashi TK, Tiruppur district - 638 110.

Copy to:

1. Commissioner of CGST,
No.1, Foulks Compound,
Anai Medu, Salem - 636 001.
2. Sr. P.S. to AS (RA), Mumbai
3. Guard file
4. Notice Board.