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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. 195/624/13-RA / 3482

Date of Issue: ~~06.2021~~

07.07.2021

ORDER NO. 239 /2021-CX (WZ) /ASRA/MUMBAI DATED 30.06.2021 OF THE 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 CENTRAL EXCISE ACT,1944.

Applicant : Shri Gaurav Bhuwania.
No. 15, Varsha, Napean Sea Road,
Mumbai - 400 009.

Respondent: The Commissioner, CGST, Thane-I.

Subject : Revision Applications filed, under Section 35EE of Central Excise Act, 1944 against the Order-in-Appeal No. BR/82/TH-I/2013 dated 30.01.2013 passed by the Commissioner (Appeals), Central Excise, Mumbai Zone-I.

ORDER

This Revision application is filed by Shri Gaurav Bhuwania, No. 15, Varsha, Napean Sea Road, Mumbai - 400 009 (hereinafter referred to as the 'applicant') against the Orders-In-Appeal BR/82/TH-I/2013 dated 30.01.2013 passed by the Commissioner (Appeals), Central Excise, Mumbai Zone-I.

2. The applicant was the Director of M/s Ramashree Conductors Limited situated at B-70/71, Additional Ambernath, MIDC Area, Dist. Thane (Maharashtra) (hereinafter referred as 'M/s RCL'), 100% EOU manufacturing engaged in the manufacture of Copper Strips and Paper Insulated Copper Strips. The Central Excise Department issued a show cause notice No. V/Adj/SCN/15-40/Ramashree/Th-I/2005 dated 29.09.2005 to M/s RCL, it's Directors and others for alleged evasion of duty on the unutilised 33.273 MTS of Copper Rod imported for the manufacture of final products during the period from December 2000 to April 2003 and thereby failing to fulfil the conditions laid down in 6.8(a) of EXIM Policy.

3. The Additional Commissioner, Central Excise, Thane-I vide Order in Original No. 02/GN-02/2007 dated 20.03.2007 confirmed the demand of Customs Duty amounting to Rs. 29,01,828/- on the goods removed during the period from February 2003 to November 2003 under the provision of Seciton 28 read with Section 72 of Customs Act, 1962 and read with Section 11A of the Central Excise Act, 1944. The adjudicating authority also imposed a penalty of Rs. 7,50,000/- on the applicant under Rule 209A of Central Excise Rules 1944 / Rule 26 of Central Excise Rules 2002.

4. Aggrieved by the said order, the applicant filed an appeal before the Commissioner (Appeals-I), Central Excise, Mumbai Zone-I. The Appellate Authority vide impugned Order in Appeal rejected the appeal filed by the applicant.

5. Being aggrieved by the impugned order-in-appeal, the applicant has filed this Revision Application under Section 35EE of Central Excise Act, 1944 before Central Government on the various ground mentioned in the application. The applicant have also filed an application for condonation of delay of 21 days in filing the Revision Application.
6. Personal hearing scheduled in this case on 02.02.2021, 16.02.2021, 18.03.2021 and 25.03.2021. Shri Radha S., Advocate of the applicant vide letter dated 25.03.2021 filed submissions and informed that he did not want to be heard in person again. He also requested to decide the matter on the sbasis of submissions made. In view of the above, the case is taken up for decision on the basis of the records available.
7. Government has carefully gone through the relevant case records and perused the impugned Order-in-Original and Order-in-Appeal.
8. Government observes that issue involved in this case pertains to confirmation / recovery of Customs Duty on the goods cleared by violating the procedure / provisions under EXIM Policy. Government finds that this issue does not fall in the category of cases mentioned in proviso to Section 35B(1) of the Central Excise Act, 1944 and hence revision application is filed beyond jurisdiction and not maintainable under Section 35EE of the Central Excise Act, 1944. The applicant is required to file appeal before Hon'ble CESTAT. As such, Government is constrained to dismiss this revision application as not maintainable.
9. Revision Application thus stands dismissed.

Shrawan
30/06/21
(SHRAWAN KUMAR)

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

To

Shri Gaurav Bhuwania.
No. 15, Varsha, Napean Sea Road,
Mumbai - 400 009

ORDER NO. 239/2021-CX (WZ) /ASRA/MUMBAI DATED 30.06.2021

Copy to :

1. The Commissioner of CGST, Thane Rural Commissionerate, 4th floor, Utpad Shulk Bhavan, Plot No. 24-C, Sector-E, Bandra, Kurla Complex, Bandra (East), Mumbai - 400 051.
2. The office of the CGST, Thane Appeals, 12th floor, Lotus Info Centre, Near Parel Station (East), Mumbai - 400 012.
3. The Assistant Commissioner, CGST, Division-V, Thane Rural Commissionerate, Vardan Trade Centre, M.I.D.C., Wagle Industrial Estate, Thane (W)-400604.
4. Sr. P.S. to AS (RA), Mumbai.
5. Guard file.
6. Spare Copy.