

SPEED POST



F.No. 198/11/2018-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. 18/11/21

Order No. 249/2021-CX dated 18-11 -2021 of the Government of India, passed by **Sh. 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. 105(AG)/CE/JDR/2018 dated 15.02.2018 passed by the Commissioner (Audit), Central Excise & CGST, Jodhpur.

Applicants : The Commissioner of Central Excise & CGST, Udaipur.

Respondent : M/s Shree Rajasthan Syntex Ltd., Dungarpur.

ORDER

A revision application no. 198/11/2018-R.A. dated 14.05.2018, has been filed by the Commissioner, Central Excise & CGST, Udaipur (hereinafter referred to as the Applicant) against the Order-in-Appeal no. 105(AG)/CE/JDR/2018 dated 15.02.2018 passed by the Commissioner (Audit), Central Excise & CGST, Jodhpur whereby the Order-in-Original No. 377-3802/2016/R-CE (Ref) dated 14.06.2016 passed by the Assistant Commissioner, Central Excise Division, Udaipur has been set aside and the appeal filed by M/s Shree Rajasthan Syntex Limited, Dungarpur (hereinafter referred to as the Respondent) has been allowed.

2. Brief facts leading up to the present revision application are that the Respondents are engaged in manufacture of various qualities of Yarn falling under Chapter 55 of the First Schedule of Central Excise Tariff Act, 1985 and were claiming rebate of duty paid on exported goods under Rule 18 of the Central Excise Rules, 2002 read with the Notification No. 19/2004-CE(NT) dated 06.09.2004. On scrutiny of the rebate claims, totally amounting to Rs. 14,22,641/-, filed on 15.03.2016, 15.03.2016, 12.04.2016 & 25.04.2016, it was observed that the Respondents herein had submitted the declaration on the ARE-1s that the exported goods had been manufactured without availing the facility of Cenvat Credit on inputs and input services and they had also declared that export was being made under claim of duty drawback. It was further observed that Respondents herein had availed Cenvat Credit on capital goods and utilised the same for payment of duty for clearance of export goods. They had also claimed higher rate of drawback consisting of Central Excise duty, Customs duty and Service Tax which is only admissible when Cenvat Credit has not been availed. Further, the Respondents were clearing their goods for home consumption without payment of duty in terms of Notification No. 30/2004-CE while, simultaneously, clearing the goods for export on payment of duty in terms of Notification No. 29/2004-CE. The original authority, vide the aforesaid Order-in-Original dated 14.06.2016, rejected the rebate claims on the grounds that (i) the Respondents had taken higher rate of drawback, hence, they were not

eligible for rebate of duty paid on exported goods and (ii) they had opted for non-availment of Cenvat Credit on inputs and input services and were working under Notification No. 30/2014-CE and, as such, they were required to pay duty on clearance of exported goods. However, while rejecting the rebate claims, the original authority allowed the re-credit of the duty paid amount of Rs. 14,22,641/- in the Cenvat Credit Account from where the amount had been paid. In appeal, the Commissioner (Appeals) set aside the Order-in-Original and allowed the payment of rebate in cash subject to the condition that Respondents herein had not taken re-credit of the amount in their Cenvat Credit Account on the basis of the Order-in-Original dated 14.06.2016.

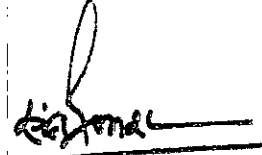
3. The revision application has been filed, mainly, on the grounds that the present case was that of declaring that the Respondents had not availed any Cenvat Credit in ARE-1s and thereby claiming higher rate of drawback at the time of export and simultaneously wrongly paying the duty to obtain rebate and thereby take double benefit so as to encash the accumulated Cenvat Credit. Accordingly, it has been contended that the Commissioner (Appeals) had erred in allowing the rebate in cash and, as such, restoration of the Order-in-Original dated 14.06.2016 has been prayed. The Respondents have filed a Written Reply dated 17.07.2018.

4. Personal hearing, in virtual mode, was held on 17.11.2021. Sh. Faisal Khan, AC appeared for the Applicant department and reiterated the contents of the RA. Sh. Anil Rathi, CA appeared for the Respondent and stated that they had already availed re-credit allowed by the original authority and also utilised the same. Therefore, even though the Commissioner (Appeals) has allowed rebate of the same amount in cash, in the facts of this case, they are not contesting the RA.

5. The Government has carefully examined the matter. It is observed that the impugned Order-in-Appeal is conditional upon the Respondents herein, having not taken the re-credit of the amount in their Cenvat Credit Account on

the basis of the Order dated 14.06.2016 of the original authority. It is admitted that the re-credit had, in fact, been taken as well as utilized. In this background, the Respondents are not contesting the instant RA. Therefore, without expressing any views on the merits of the issues involved, the impugned Order-in-Appeal is set aside.

6. The revision application is disposed of, accordingly.



(Sandeep Prakash)

Additional Secretary to the Government of India

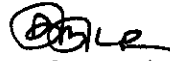
The Commissioner of Central Excise & CGST,
142-B, Sector-11, Hiran Magri, Udaipur – 313 002.

G.O.I. Order No. 249/21-CX dated 18-11-2021

Copy to: -

1. M/s. Shree Rajasthan Syntex Ltd., Village-Udaipur, Simalwara road, Dungarpur, Rajasthan – 314 001.
2. The Commissioner (Audit), Central Excise & CGST, Jodhpur, G-105, New Industrial Area, Opp. Diesel Shed, Basni, Jodhpur – 323 025.
3. P.S to A.S. (Revision Application)
4. Guard File
5. ✓ Spare Copy.

ATTESTED



(Lakshmi Raghavan)

अनुभाग अधिकारी / Section Officer
वित्त मंत्रालय (राजस्व विभाग)
Ministry of Finance (Deptt. of Rev.)
भारत सरकार / Govt. of India
नई दिल्ली / New Delhi