

**SPEED POST**



F.No. 195/165/18-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: 30/11/21

Order No. 257/2021-CX dated 30-11-2021 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 Applications filed under section 35 EE of the Central Excise Act, 1944 against the Order-in-Appeal Nos. J&K-EXCUS-APP-06-07/18-19 dated 10.04.2018 passed by the Commissioner, CGST & CE, Jammu.

**Applicants :** M/s Chenab Textile Mills, Kathua, J&K.

**Respondent :** The Commissioner of CGST, Jammu.

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**ORDER**

A revision application no. 195/165/2018-R.A. dated 09.07.2018 has been filed by M/s Chenab Textile Mills, Kathua (hereinafter referred to as the Applicants) against the Order-in-Appeal no. J&K-EXCUS-APP-06-07/18-19 dated 10.04.2018 passed by the Commissioner, CGST & CE, Jammu, whereby the Commissioner (Appeals) has rejected the appeal filed by the Applicant against the Orders-in-Original Nos. 35-36/ADC/CCE/J&K/CTM/2016-17 dated 04.04.2017, passed by the Additional Commissioner, Central Excise, Jammu.

2. Briefly stated, the Applicants were engaged in the manufacturing of M.M. Yarn, Cotton Yarn, Polyester Cotton Yarn, Viscose Yarn and Acrylic Yarn classifiable under CETH 52,54 and 55 of Central Excise Tariff Act, 1985. The Applicants were availing CENVAT Credit on inputs and capital goods used in or in relation to the manufacture of final products under CENVAT Credit Rules, 2004. They had cleared various kinds of yarn, for home consumption (DTA) on full exemption from payment of duty in terms of Notification No. 30/2004-CE and as well as for export but on payment of duty on concessional rate in terms of Notification No. 29/2004-CE and on tariff rate as well. The Applicants claimed rebate of duty on export clearances, as provided under Rule 18 of the Central Excise Rules, 2002 read with notification no. 19/2004-CE(NT) dated 06.09.2004 and filed rebate claims for Rs. 3,79,89,145/- and Rs. 4,99,013/- in respect of duty paid on export of yarns falling under Chapter 52, 54 & 55 of the Tariff, under the ARE-1s, with the Assistant Commissioner, Central Excise Division, Jammu. The Applicants were sanctioned rebate amount to the tune of Rs. 3,64,72,803/- and Rs. 4,99,013/- (by way of cash) vide Orders-in-Original Nos. 27 to 63/Rebate/CE/AC/J/14 all dated 31.03.2015, 64 to 118/Rebate/CE/AC/J/14 all dated 23.04.2015 and 23/Rebate/CE/AC/J/14 dated 30.01.2015 in respect of those ARE-1s. The department did not accept said rebate sanctioning orders and

preferred appeal against said orders before Commissioner (Appeals). Commissioner (Appeals), vide O-I-A No. JNK-EXCUS-000-568-661-15-16 dated 31.03.2016, set aside the sanction of the rebate claim as passed by the original authority. However, the amount deposited by the Applicants was allowed as re-credit to them, in their CENVAT account. The Applicants filed revision applications against this OIA dated 31.03.2016 which were allowed by the Government vide GOI Order No. 535-569/18-CX dated 12.11.2018. However, the Department had already issued protective demands for Rs. 3,69,71,816/- under Section 11A of the Central Excise Act, 1944, which came to be confirmed after issuance of OIA No. JNK-EXCUS-000-568-661-15-16 dated 31.03.2016. The Commissioner (Appeals) has, also, vide the impugned OIA, rejected the appeal filed against the confirmation of demands in view of the OIA dated 31.03.2016.

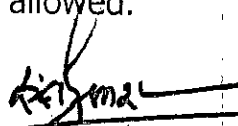
3. The revision application has been filed, mainly, on the grounds that the simultaneous availment of benefits of Notifications Nos. 7/2012 and 30/2004 is correct and since under GST regime, any refund in CENVAT account has to be paid in cash, the whole exercise is revenue neutral and the impugned OIA may be set aside.

4. Personal hearing was granted on 26.11.2021, in virtual mode. Ms. Sukriti Das, Advocate appeared for the Applicants and requested that the Synopsis submitted on 26.11.2021 may be taken on record and reiterated the contents of the RA and the said Synopsis. No one appeared for the Respondent department and no request for adjournment has also been received. Hence, the matter is taken up for decision on the basis of records available.

5. The Government has carefully examined the matter. It is observed that the issue in the instant revision application stands settled vide GOI Order No. 535-569/18-CX dated 12.11.2018 wherein the grant of rebate claims has been upheld. Since the rebate claims

have been found to be sanctioned correctly, the question of demand thereof as "erroneous refund" under Section 11A ibid does not arise.

6. In view of the above, the revision application is allowed.

  
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(Sandeep Prakash)


Additional Secretary to the Government of India

M/s Chenab Textile Mills,  
National Highway, Kathua (J & K)  
Pin 184 102.

G.O.I. Order No. 257 /21-CX dated 30-11-2021

Copy to: -

1. The Commissioner of CGST, Jammu.
2. The Commissioner (Appeals), CGST & CE, Jammu.
3. Ms. Sukriti Das, Advocate, C/o M/s Laxmikumaran & Sridharan, 5, Jangpura Extension Road, Link Road, New Delhi-110 014.
4. P.S. to A.S. (Revision Application).
5. Guard File.
6. *Spare Copy.*

ATTESTED  
  
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Ashish Tiwari  
(Assistant Commissioner)