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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.195/1265/12-RA / 1136

Date of Issue: 13.02.2018

ORDER NO. 25/2018-CX (WZ) /ASRA/MUMBAI DATED 12-2-2018 OF THE GOVERNMENT OF INDIA PASSED BY SHRI ASHOK KUMAR MEHTA, PRINCIPAL COMMISSIONER & EX-OFFICIO ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA, UNDER SECTION 35EE OF THE CENTRAL EXCISE ACT, 1944.

Applicant : M/s Vandana Overseas, 177/11, GIDC, Pandesara,
Surat - 394 221.

Respondent: Commissioner of Central Excise, Customs, & Service Tax,
Raigad.

Subject : Revision Applications filed, under section 35EE of the Central Excise Act, 1944 against the Order-in-Appeal No.US/ 510/ RGD/2012 DATED 23.08.2012 passed by the Commissioner of Central Excise (Appeals-II), Mumbai.

ORDER

Page 1 of 17

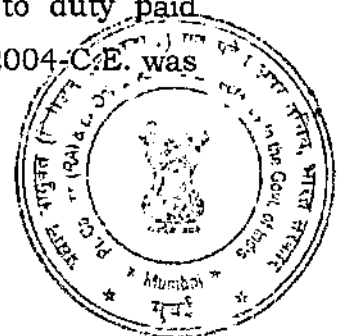


This revision application is filed by M/s. Vandana Overseas a merchant exporter situated at 177/11, GIDC, Pandesara, Surat - 394 221 (hereinafter referred to as "the applicant") against the Order-in-Appeal No. US/510/RGD/2012 DATED 23.08.2012 passed by the Commissioner of Central Excise (Appeals-II), Mumbai.

2. The brief facts of the case are that the Deputy Commissioner (Rebate) Central Excise, Raigad vide Order-in-Original No. 2422/11-12/DC (Rebate) / Raigad dtd.15.03.2012 rejected the 40 rebate claims amounting to Rs. 20,69,951/- filed by the applicant on the ground that the applicant had admitted that in several instances their processors had utilized Cenvat Credit and paid duty on export clearances which was accumulated on the basis of bogus / fake grey suppliers' invoices and the exported goods were fully exempt under Notification No. 30/2004-CE dated 09.07.2004 and in view of sub section (1) of Section 5A of the Act read with CBEC Circular No. 937/27/2010-CX dated 26.11.2011, the applicant could not have paid duty and did not have the option to pay the duty. The adjudicating authority further observed that the onus is on the applicant to prove that the credits and the grey/yarn suppliers were genuine.

3. Being aggrieved by the impugned Order-in-Original the applicant filed appeal against the said order dated 15.03.2012 before Commissioner (Appeals-II), Mumbai

4. The Commissioner (A) observed that the proviso to Notification No. 30/2004-C.E. makes it abundantly clear that the exemption contained in the Notification is not applicable to the goods in respect of which credit of duty on inputs has been taken under the provisions of the Cenvat Credit Rules, 2004. The ARE-1s under which the goods were exported clearly declared that the goods had been manufactured availing facility of Cenvat credit under the provisions of Cenvat credit Rules, 2004 and therefore, Commissionr (Appeals) observed that it is clear that due to duty paid character of inputs, the exemption under Notification No. 30/2004-C.E. was



not applicable to the impugned goods and hence this ground for rejection of rebate claim cannot be sustained.

5. As regards the second ground on which the adjudicating authority has rejected the claims is that the applicants did not produce evidence of the genuineness of the Cenvat Credit availed by the processors, Commissioner (Appeals) observed that the applicant is a merchant exporter and the goods had been cleared on payment of duty by M/s Rachana Arts Prints, Surat on payment of duty by debit of Cenvat Credit; that the processors who manufactured the goods were figuring in the Alert notices issued by D.G.C.E.I. Vadodra and Surat-I Commissionerate for fraudulent availment of Cenvat Credit on the basis of 'invoices' issued by bogus/ non-existent grey manufacturers; that the applicants were also a party in the said fraudulent availment of Cenvat Credit; that Shri Mukesh Desai, Manager and authorized person of M/s.Vandana Overseas and Rachna in his statement dt.13.6.2008 had accepted that they had wrongly availed cenvat credit without receipt of the goods and credits were availed mainly on the basis of paper transactions; that statement and the investigation conducted by DGCEI and resultant Show Cause Notice No.INV/DGCEI/BRU/39/2008 dt.10.5.2010 amply show that M/s.Rachna had paid the duty pertaining to export through cenvat credit account and this cenvat credit was accumulated mainly on account of bogus and fictitious transactions. In view of this Commissioner (Appeals) held that the applicant had not been able to prove that there was a genuine payment of duty. Further, relying on Revisionary Authority's Order in Re: Sheetal Exports -2011 (271) E.L.T. 461 (G.O.I.) , Re: Jhawar International 2012 (281) E.L.T. 460 (G.O.I.) as well as Hon'ble Bombay High Court's judgement in Union of India v/s Rainbow Silks -2011 (274) E.L.T. 510 (Bom.) Commissioner (Appeals) upheld Order-in-Original No. 2422/11-12/DC (Rebate) / Raigad dtd.15.03.2012 rejected the appeal filed by the applicant.

6. Being aggrieved the applicant filed appeal against the impugned Order in Appeal on following grounds that :



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6.1 All these Rebate claims were filed in January, and February, 2005 and no letter or any objection inspite of repeated request for sanction of rebate claim till the issue of impugned show cause notice dated 02.02.2012 had been issued by the Deputy Commissioner (Rebate), Central Excise, Raigad. The SCN was the only first correspondence Applicants had received against these 40 rebate claims i.e. after 5 years inspite of their repeated requests. This itself showed the injustice happened to the Applicants.

6.2 The only allegation remained and accepted by the Hon'ble Commissioner (Appeals) is that of the Applicants did not produce evidence of genuineness of the Cenvat Credit availed by the Processors. In this connection Applicants submits as under:

(A) The OIO and SCN itself shows that the processor/manufacturer M/s. Rachana Arts Prints Pvt. Ltd. who is the processor in this case and from whom they have purchased the fabrics has paid the amount of irregular Cenvat credit availed after issue of Show cause notice bearing No. V (CH -54)3-Addl/Dem/Ad/2008-9 dated 20.10.08 of Rs. 33,90,576/-. Manufacturer has paid an amount of Rs. 27,57,221/- alongwith interest due thereon vide TR 6 challans and the Additional Commissioner vide OIO No. 45/Adj/ADC-PSK/DEM/2009-10 dated 31.7.2009 confirmed and appropriated the said amount. This shows that duty on the exported goods has been appropriately paid by the manufacturer and the Merchant Exporter i.e. Applicants. Hence the rebate claims filed by the Applicants are proper and correct as proper duty has been paid by the manufacturer. There cannot be two punishment for one offence. Once duty has



3

been recovered from the manufacturer on the irregular availment of credit along with interest and secondly the rejection of the rebate claim on which proper duty has been paid by the manufacturer is nothing but double recovery of duty on the same clearance. It is also the policy of the Government that no duty should be exported along with the goods. Further even the merchant exporter is not responsible for the wrong of manufacturer as the manufacturer is registered with Central Excise and the manufacturer does anything wrong the jurisdictional officers should take appropriate action to recover the duty from the manufacturer as the Applicants have received the goods under proper Central Excise duty paid invoice from the registered manufacturer. This is also confirmed by the Adjudicating Authority as there is no allegation in this regard. For any fault of manufacturer merchant exporter is not responsible. In this connection Hon. Joint Secretary, R.A., Government of India has passed number of Orders.

(B) The Applicants rely on some of these Orders/Judgments in this regard:

(a) GOI Order No. 140/12-CX dated 17.02.2012 in re. of Commissioner of Central Excise, Mumbai-I vs. Krishna Exports, Surat, Gujarat-It is in para 10.4 held as under:

"10.4 Government notes that applicability of G.O.I. order dated 18.05.07 has been categorically upheld by Hon'ble High Court. It



is also mentioned here that in the case of CCE Mumbai-I vs. Rainbow Silk Mills, Hon'ble High Court of Bombay vide order dated 27.06.11 in W.P. No. 3956/10 reported as 2011 (274) ELT 501 (BOM) has also expressed almost similar view. Hon'ble High Court has not questioned Government decision in the G.O.I. order No.304-307/07 dated 18.05.07 in the case of Shree Shayam International. Government notes that regarding the point whether duty paid from illegally accumulated Cenvat Credit can be termed as duty paid for the requirement of Rule 18 of the Central Excise Rules,2002, Hon'ble Gujarat High Court in the above said judgment para 12, has categorically held that merchant exporter has made payment to the manufacturer i.e. seller of goods and therefore entire duty is paid by them of which it is claiming rebate of duty paid on excisable goods upon eventual export." In this case GOI has upheld the Order in Appeal and rejected the Revision Application filed by the Department being devoid of merit. Copy of the said GOI order is enclosed herewith and marked as EXHIBIT - 'D'.

(b) Commissioner of C.Ex. & Customs vs. D.P. Singh - 2011 (270) E.L.T.321 (Guj). This Judgment is referred in the above referred GOI order and on the same issue. In this case also the Special Civil Application of the Department has been dismissed. Department filed SLP against this order before the



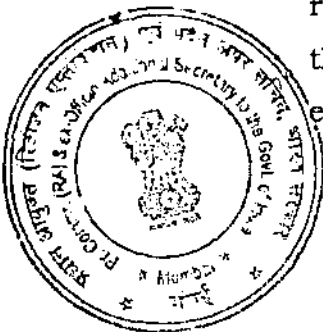
Hon'ble S.C. and the Hon'ble S.C. dismissed the SLP after condoning the delay.

(C) The Applicants state and submit that they have received all the duty payment certificates and collectively enclosing them here for kind perusal and Marked as EXHIBIT - 'G'.

(D) In this connection Applicants rely on Boards Circular 510/06 2000-CX dated 3.2.200. This Circular was relied by G.O.I. while rejecting the revision application filed by Commissioner - in Re: Banswara Syntex Ltd. - 2004(170)E.L.T. 124(G.O.1.) and was noted by the Appellate Tribunal while it held that claim for rebate cannot be denied on the ground that rebate is admissible only on duty on FOB value and not in CIF value as long as same represents the transaction value - Sterlite Industries (I) Ltd. V. Commissioner - 2009 (236) E.L.GT. 143 (Tri.-Chennai). If there is any doubt about the payment of duty etc. after sanction of rebate claim it should be referred to the Jurisdictional Officers of the manufacturer.

(E) There is no allegation that the duty debited at the time of export is not proper and correct. Once duty paid character of the export goods has been accepted there is no question of non applicability of Section -3. Further physical export of goods has been accepted.

(F) Applicants state and submit that M/s. Rachana Arts Prints Pvt. Ltd. did not deposit the amount in respect of duty paid on export clearance. In fact there is no allegation against debit of duty on exported goods. The allegation against M/s.



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Rachana Arts Prints P. Ltd., is against the availment of Cenvat credit. The Applicants are the Merchant exporter who is concerned with the payment of duty on exported goods which is accepted by the department.

- (G) The Applicants state and submit that these are same goods and it is certified by the central excise officers as well as Customs authorities. The ARE1No. is shown on the Shipping Bill and the S.B. No. shown on the ARE 1. Both these entries are certified by the Customs Authorities. When the physical export is certified, even if there is any clerical mistakes are there, this needs to be condoned in the interest of justice. Hon. Joint Secretary, R.A. G.O.I. has passed many orders in respect of condonation of procedural mistakes if any in the interest of export, Applicants rely on the same. In this connection Applicants rely on CBEC Circular No. 81/81/94 -CX dated 25.11.1994.

(H) The Applicants state and submit that Section 3 of the Act i.e. duty should be paid by the manufacturer. In this case the Applicants are merchant exporters and M/s. Rachana is the Manufacturer. Therefore, any duty is required to be recovered, to be recovered from M/s. Rachana. Further M/s. Rachana has paid the duty on the irregular Cenvat credit availed and there is no allegation against Rachana that the debit of duty against the Applicants is not proper and correct.

Once the irregular credit taken has been reversed there is no question of denying the rebate



25

to the Applicants. Further in this connection Applicants rely on the following Orders.

(a) 2005(186)ELT100(Tr.Mumbai) - Prachi Poly Products Ltd. vs. CCE, Raigad - Cenvat/Modvat-Inputs - Applicants taken all reasonable steps to ensure that duty has been paid on inputs received by them and on which they took credit - Credit not deniable - Further, where the supplier defaults any payment of duty outstanding together with interest required to be recovered from him, an action against the consignee to reverse/recover credit availed need not to be resorted to as long as the bonafide nature of transaction is not in dispute - Rules 3,7,12 & 13 of Cenvat Credit Rues, 2001 & 2002.

(b) 2005(184) ELT 397(Tr.Delhi) - CCE, Jalandhar vs. Aggarwal Iron Industries- Cenvat/Modvat - Actual duty paid by manufacturer admissible as credit - Buyer having no responsibility to ensure that correct duty paid by manufacturer of inputs - Credit taken by assessee on duty discharged by manufacturer of inputs, proper and not to be varied when original assessment of inputs remains same - Rule 57A of erstwhile Central Excise Rules,1944 - Rule 3 of Cenvat Credit Rules ,2004.

(c) 2005(191) ELT-899 (Tri. -Del.) - Parasrampurua Synthetics Ltd. vs. CCE, Jaipur - Cenvat/Modvat - For mistake in payment of duty by supplier, issue to be raised at suppliers end and not at Applicant's end as they had taken Cenvat credit on the basis of invoice issued by supplier - Cenvat credit taken on basis of specified duty paying Document not disallowable - Rules 4 and 9 of

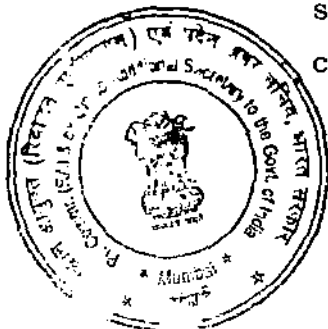


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Cenvat credit Rules,2004. All these Judgments/Orders were referred in reply to the SCN. However, no cognizance of the same is taken in the CIO.

6.3 The Applicants state and submit that it is an internationally accepted principle that goods to be exported out of a country are relieved of the duties borne by them at various stages of their manufacture in order to make them competitive in the international market. The most widely accepted method of relieving such goods of the said burden is the scheme of rebate. Thus in order to make Indian goods competitive in the International market, the tax element in the exporter's cost is refunded to him through the system of rebate. This is only a reimbursement and not any kind of incentive. The Applicants have claimed the said amount of duty paid on the goods exported and paid at the time of clearance for export. Therefore, rejection of the genuine rebate claim only on technical grounds as is done by the adjudicating authority in the present case, is nothing but harassment to the genuine exporter and discouraging export.

6.4 The Applicants have exported the goods under ARE1 and submitted the Triplicate copy of ARE 1 s within 24 hours as required. After export submitted rebate claim along with all the required documents. Out of this Shipping Bill, ARE1 in original and Duplicate, Custom Certified Export Invoice and Packing slip on all endorsement by Customs Authorities showing that whatever goods cleared under ARE 1 has been duly exported. Along with the Rebate claim the Applicants has also submitted the Triplicate copy of ARE 1 received from the Range Supdt. in sealed cover and Original copy of the Central Excise Invoice showing therein the Description of goods cleared, quantity cleared, duty payable etc. all these particulars are shown on the



51

ARE1 and description and quantity is also shown on the S.B. and export Invoice. There is no allegation that whatever cleared has not been exported. It is also accepted that the goods cleared under ARE1 has been exported. The remaining allegation is procedural which needs to be condoned in the light of the following Orders of GOI, Tribunal and Judgments.

- (a) GOI Order No. 514/2006 dated 30.6.2006 - M/s. Ambica Knitting - Distinction between Mandatory and procedural lapses and procedural lapses required to be condoned. Marked as 'H'
- (b) M/s. Banner International Order No. 255/07 dated 27.4.07. Marked as EXHIBIT- 'I'.
- (c) M/s. Vipul Dye Chem Ltd. Order No.873/2006 dated 29.9.2006. Marked as EXHIBIT — 'J'.
- (d) M/s. Britannia Industries Ltd, Mumbai. Order No. 380-382/07 dated 29.06.2007. Marked as EXHIBIT — 'K'.

6.5 It is the policy of the Government that no duty should be exported along with the goods. Therefore, the Technical lapse on their part may please be condoned and OIO may be set aside.

6.6 Rule 18 of Central excise Rules, 2002 read with Notification No. 19/2004 CE (NT) dated 06.09.2004 allows rebate of duty on excisable Goods exported through a merchant exporter. Since there is no denying the fact that proper duty was paid on the finished products were duly exported, the Applicants cannot be penalised for merely for non-compliance of procedures. Applicants rely on the following judgments

- a) Krishna Filaments Ltd 2001 (131) ELT 726 (GOI). - Marked as EXHIBIT-'L'.
- b) CBEC Circular No. 510/06/2000-CX., dated 3-2-2000 - Marked as EXHIBIT-'M'
- c) Duty payment certificates issued by the Concerned Range Superintendent of the manufacturer i.e. M/s. Rachna Art Prints, Range -I, Division-III, Surat-I Commissionerate in



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respect of all the ARE 1s impugned in this Revision Application marked separately issued in 2006 after the investigation is over and duty deposited on the cenvat credit availed could not be correlated on grey fabrics invoices by processor M/s. Rachna Art prints issued after payment in cash wherever there is deficiency paid along with interest. This itself is the proof that proper duty has been paid by the processors in respect of the goods exported under the ARE 1s impugned in this R.A. This can be seen from the EXHIBIT-'G' enclosed to this Revision Application.

7. A Personal hearing in the matter was held on 27.12.2017. Shri R.V.Shetty Advocate duly authorized by the applicant appeared for the personal hearing and reiterated the submissions filed in the instant RA along with the case laws filed on the date of hearing. In view of the same he pleaded that RA be allowed and Order in Appeal set aside.

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

9. Government observes that the adjudicating authority rejected the rebate claims filed by the respondent on the ground that the exported goods were exempt under Notification No. 30/2004-CE dated 09.07.2004. However, Commissioner (Appeals) has observed that Notification No. 30/2004-C.E. makes it abundantly clear that the exemption contained in the Notification is not applicable to the goods in respect of which credit of duty on inputs has been taken under the provisions of the Cenvat Credit Rules, 2004. Moreover, the ARE-1s under which the goods were exported clearly declared that the goods had been manufactured availing facility of Cenvat credit under the provisions of Cenvat credit Rules, 2004. Therefore, it was held that they could not have been possibly exempt under Notification No. 30/2004-C.E.



10. Thus the only issue now remains before the Government is as to whether evidence produced by the applicant about genuineness of the Cenvat Credit is an acceptable piece of evidence for grant of rebate or not?

11. The applicant have pleaded that the processor, manufacturer M/s Rachna Art Prints Pvt. Ltd. has paid the amount of irregular Cenvat Credit which was appropriated by Additional Commissioner of Central Excise, Surat-I vide OIO No.45/Adj/ADC-PSK/DEM/2009-10 dated 31.07.2009. Hence, the rebate claim filed by them are proper and correct as proper duty has been paid by the manufacturer wherever no proper duty has been paid by the Grey manufacturer.

12. Government notes that the original authority in Order-in-Original No. 2422/11-12/DC (Rebate) / Raigad dtd.15.03.2012 while rejecting the rebate claims of the applicant observed that

"the assessee (the applicant) has obtained certain Cenvat debit verification letters immediately after clearances were made. But the subsequent investigations of DGCEI / Central Excise formations had proved that there is a fraud at grey stage duty payment and the accumulation of credits at processors/finished product manufacturer's end. Thus the correspondences issued earlier to the investigations do not have authenticity".

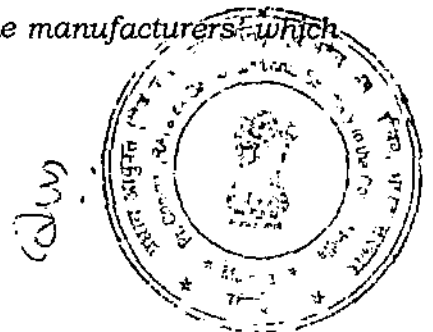
13. Government observes that during investigation by department the suppliers of inputs were found non-existent which resulted in confirmation of demand of Rs.27,57,221/-(Rupees Twenty Seven Lakhs Fifty Seven Thousand Two Hundred Twenty One). The fact remains that due investigations were done and it was conclusively proved that supplier of manufacturer M/s Rachna Art Prints Pvt. Ltd., was fictitious. M/s Rachna Art Prints Pvt. Ltd claimed to have purchased/received the duty paid inputs from entity which was found non-existent. As such it is quite clear that the



manufacturer had taken the Cenvat Credit against fraudulent documents which were null and void and payment of duty non-exist. The case laws cited by the respondent are of individual facts are of no help, when till date the involved "fraud" is proved and the manufacturer is party to fraud. Unless and until duty paid character of exported goods is proved the rebate cannot be granted. In this case manufacturer M/s Rachna Art Prints Pvt. Ltd. had procured the grey fabrics from non-existent suppliers and therefore they themselves have in a way played role in committing this fraud. This is proved by the fact that M/s Rachna Arts Prints Pvt. Ltd. paid the amount confirmed by Additional Commissioner vide Order in Original dated 31.07.2009 towards wrong availment of Cenvat Credit. When the purported person, who has issued the invoices of grey fabrics is fictitious, whole transaction starting from procurement and ending with exports are vitiated since the manufacturer procuring grey fabrics on fake papers was in knowledge of said fraud.

14. Government further notes that at para 24 of the said Order in Original, the original authority has observed as under :

"It is a fact that the investigations in the case resulted in issuance of show cause notice No.INV/DGCEI/BRU/39/2008 dated 10.05.2010 by DGCEI Vadodara to the claimant. As per the investigations it is found that the main processor i.e. M/s Rachna has paid most of the duty pertaining to exports through Cenvat Credit Account. The claimant has shown purchase of grey fabrics from Non-Existent Grey suppliers of Surat. That the claimant has got the finished goods processed by the manufacturers' on job work basis. These manufacturers had not received any grey fabrics, but received only the invoices of grey fabrics. The invoices were issued by nonexistent grey suppliers, which had conclusively proven that the documents were only issued for generation of cenvat credit. That these input documents were subsequently used for accumulation of a pool of cenvat credit by the manufacturers which



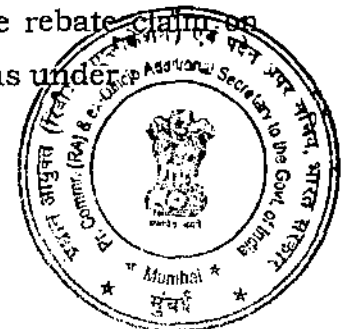
were nonexistent, which was later used for payment of Central Excise duty on export clearances.

15. The above facts clearly indicate that the applicant was also a party to fraudulent availment of the Cenvat Credit at the processors end. As such the whole transaction becomes bogus which was created on paper for availing rebate claims fraudulently. The duty paid out of such wrongly availed Cenvat credit cannot be treated as payment of duty on export goods as no actual Cenvat credit was available with manufacturer and the credit was taken on duty paid inputs on which appropriate duty of excise had not been paid. As such the rebate claims filed are not admissible under Rule 18 of Central Excise Rule 2002.

16. In the case of Omkar Overseas Ltd. [2003(156) ELT 167(SC)] Hon'ble Supreme Court has held in unambiguous terms that rebate should be denied in cases of fraud. In Sheela Dyeing and Printing Mills (P) Ltd. [2007 (219) ELT 348,(Tri.-Mum)] the Hon'ble CESTAT, has held that any fraud vitiates transaction. This judgement has been upheld by the Hon'ble High Court of Gujarat.

17. In a similar case of M/s. Multiple exports Pvt. Ltd., Government vide GOI order No 668-686/11-Cx dt. 01-06-2011 has upheld the rejection of rebate claim by lower authorities. Division Bench of Hon'ble High Court of Gujrat, vide its order dated 11-10-2012 in SCA No 98/12 with SCA No 101/12 [reported in 2013 (288) E.L.T. 331 (Guj.)], filed by party has upheld the above said GOI Revision order dated 01-06-2011. Government also observes that the contention of the applicant that they had exported the goods on payment of duty and therefore, they are entitled to rebate of Excise duty . The same arguments came to be considered by the Division Bench of Hon'ble High Court of Gujarat in Special Civil Application No. 13931/2011 in Diwan Brothers Vs Union of India [2013 (295) E.L.T. 387 (Guj.)] and while not accepting the said submission and while denying the rebate claim on actually exported goods, the Division Bench has observed as under

सिद्ध



"Basically the issue is whether the petitioner had purchased the inputs which were duty paid. It may be true that the petitioner manufactured the finished goods and exported the same. However, that by itself would not be sufficient to entitle the petitioner to the rebate claim. In the present case, when the authorities found inputs utilized by the petitioner for manufacturing export products were not duty paid, the entire basis for seeking rebate would fall. In this case, particularly when it was found that several suppliers who claimed to have supplied the goods to the petitioner were fake, bogus or nonexistent, the petitioner cannot be claimed rebate merely on the strength of exports made."

18. In the present case also, the Additional Commissioner of Central Excise, Surat-I vide OIO No.45/Adj/ADC-PSK/DEM/2009-10 dated 31.07.2009 confirmed the demand of Rs 27,57,221/- against the manufacturer M/s Rachna Art Prints Pvt. Ltd in respect to the fake transactions between manufacturer and supplier. The conclusions arrived at by the Additional Commissioner are on the basis of evidence on record and such conclusions are accepted by the manufacturer M/s Rachna Art Print Pvt. Ltd. by paying the amount towards such wrong availment of Cenvat Credit.

19. Government also rely on the judgments of Mumbai High Court in case of Commissioner of Central Excise, Mumbai-I Vs M/s Rainbow Silks & Ann reported at 2011 (274) ELT. 510 (Bom), wherein Hon'ble High Court, Mumbai, in similar circumstances ie., when a processor is a party to a fraud, wherein cenvat credit was accumulated on the basis of fraudulent documents of bogus firms and utilized for payment of duty on goods exported, it was held that "since there was no accumulation of cenvat credit validly in law, there was no question of duty being paid therefrom" and quashed the order of Revisional Authority, sanctioning the rebate on such duty payments.



20. In view of above discussions and findings, Government holds that the rebate claims are not admissible to the applicant. Accordingly, Government upholds the impugned order-in-appeal.

21. The revision application is accordingly dismissed being devoid of merits.

22. So, ordered.

(Signature)
12.2.18

(ASHOK KUMAR MEHTA)
Principal Commissioner & Ex-Officio
Additional Secretary to Government of India.

ORDER No. 25 /2018-CX (WZ) /ASRA/Mumbai DATED 12.02.2018

To,
M/s Vandana Overseas,
177/11,GIDC,
Pandesara, Surat-394 221

True Copy Attested

Copy to:

(Signature)
13.2.18
एस. आर. हिरुलकर
S. R. HIRULKAR
(A C)

1. The Principal Commissioner of CGST & CX, Belapur Commissionerate,CGO Complex, Belapur, Navi Mumbai, Thane.
2. The Commissioner of GST & CX, (Appeals) Raigad, 5thFloor,CGO Complex, Belapur, Navi Mumbai, Thane.
3. The Deputy / Assistant Commissioner (Rebate), GST & CX Belapur
4. Sr. P.S. to AS (RA), Mumbai
5. Guard file
6. Spare Copy.

