

**REGISTERED  
SPEED POST**



**F.No.195/222/12-RA**  
GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
DEPARTMENT OF REVENUE  
(REVISION APPLICATION UNIT)

14, HUDCO VISHALA BLDG., B WING  
6<sup>th</sup> FLOOR, BHIKAJI CAMA PLACE,  
NEW DELHI-110 066

Date of Issue... 01/02/16

**ORDER NO. 26/2016-CX DATED 29.01.2016** OF THE GOVERNMENT OF INDIA,  
PASSED BY SMT. RIMJHIM PRASAD JOINT 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 Order-in-Appeal No.  
BC/217/RGD/11 dated 30.12.2011 passed by the  
Commissioner of Central Excise (Appeals), Mumbai-III.

Applicant : M/s. Unique Wire Industries.

Respondent : Commissioner of Central Excise, Raigad.

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**ORDER**

This revision application is filed by M/s. Unique Wire Industries, against the Order-in-Appeal No. BC/217/RGD/11 dated 30.12.2011 passed by the Commissioner of Central Excise (Appeals), Mumbai-III with respect to Order-in-Original passed by the Assistant Commissioner of Central Excise (Rebate), Raigad.

2. Brief facts of the case are that M/s. Unique Wire Industries, having manufacturing facility at Silvasa, Gujarat, have exported goods from the I.C.D. Sabarmati, Ahmedabad and filed rebate claim with the Maritime Commissioner, Raigad. The said rebate claim was rejected by Assistant Commissioner (Rebate), Central Excise, Raigad on the ground that Maritime Commissioner Raigad, have no jurisdiction over the exports made from the ICD Sabarmati, Ahmedabad.
3. Being aggrieved by the said Order-in-Original, applicant filed appeal before Commissioner (Appeals), who rejected the same.
4. Being aggrieved by the impugned Order-in-Appeal, the applicant has filed this revision application under Section 35 EE of Central Excise Act, 1944 before Central Government on the following grounds:-
  - 4.1 The rebate claim filed on 23.03.2010 with the office of the Maritime Commissioner and subsequently rejected by Assistant Commissioner of Central Excise, Rebate Section, Khandeshwar on the ground that it has no jurisdiction to deal with the claim export has taken place from ICD, Sabarmati. However, documents were not returned to us either through our representative or by registered post immediately towards proper guidance to submit same with appropriate authority. We are a regular exporter and always our applications are submitted with the same office and it was a lack of knowledge that we must submit application to an authority who falls under the jurisdiction from where export has taken place.
  - 4.2 The appellant filed appeal under Ref. No. V2(A)145/RGD/2011/4502,4503 to the office of the Commissioner of Central Excise (Appeals), Bandra & heard in person. However the case was subsequently transferred to again by them to office of Commissioner of Central Excise, Belapur. Office of the Commissioner of Central Excise, Belapur vide their Order-in-Appeal No. BC/217/RGD/2011-12 dated 30.12.2011 upheld the impugned Order-in-Original.
5. Personal hearing was scheduled in this case on 23.06.2015, 13.07.2015 and 10.08.2015. Nobody attended the hearing. Hence, Government proceeds to decide the case on merits on the basis of available records.
6. Government has carefully gone through the relevant case records available in case file, oral & written submissions and perused the impugned Order-in-Original and Order-in-Appeal.



7. M/s. Unique Wire Industries, have exported goods from the I.C.D. Sabarmati, Ahmedabad and filed rebate claim with the Maritime Commissioner, Raigad. The said rebate claim was rejected by Assistant Commissioner(Rebate), Central Excise, Raigad on the ground that Maritime Commissioner, Raigad have no jurisdiction over the exports made from the ICD Sabarmati, Ahmedabad. Commissioner (Appeals) upheld the impugned Order-in-Original. Now, the applicant has filed this revision application on grounds mentioned in para (4) above.

8. Government notes that in terms of procedure prescribed under the head(b) of the Notification No. 19/2004-C.E.(N.T.) dated 06.09.2004, the rebate claim may be filed with the Assistant Commissioner/Deputy Commissioner having jurisdiction over factory of manufacture or warehouse or with Maritime Commissioner. Government observes that the applicant was having manufacturing facility at Silly, Silvasa (Gujarat) and they exported the goods from ICD, Sabarmati, Ahmedabad. As, such, the Assistant Commissioner (Rebate), Raigad was neither jurisdiction Assistant/Deputy Commissioner nor Maritime Commissioner. As such, the claim before original authority was beyond jurisdiction. Further, from a perusal of the impugned Order-in-Original, Government observes that a deficiency cum show cause notice cum call for personal hearing letter was issued to the claimant vide F.No. V/15-/Reb/Unique Wire/Inds./Rgd/10/8589 dated 29.06.2010 asking them to clarify the issue pertaining to jurisdiction. Neither the claimant appeared for hearing nor any reply was received from them. Before Commissioner (Appeals) and in Revision proceedings the applicant have pleaded that they are a regular manufacture and exporter and were not aware of filing rebate claims to a different office when shipment had taken place from ICD, Ahmedabad.

9. Government observes that Commissioner (Appeals) has rightly held that in terms of Notification 19/2004 CE(NT) dated 06.09.2004 which provides the procedure for filing rebate, the claim of rebate shall be lodged with original copy of application to the Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise having jurisdiction over the factory of manufacture or warehouse or as the case may be Maritime Commissioner. It is a fact on record that the goods were exported from ICD, Sabarmati and in such case the original authority i.e. Maritime Commissioner will have no jurisdiction. The applicant was pointed out regarding the discrepancy but they neither filed any reply nor withdrew their claim to file before the proper authority. As such, the claim has rightly been rejected as filed beyond jurisdiction by the original authority.

10. Government further notes that it is a settled issue that benefit under a notification cannot be extended in case of non fulfillment of procedure prescribed therein as held by Apex Court in case of Government of India vs. Indian Tobacco Association 2005(187) ELT 162(SC) Union of India vs. Dharmendra Textile Processors 2008(231) ELT 3 (SC). Also it is settled that a Notification has to be treated as a part of the statute and it should be read along with the act as held by the Apex Court in the



case of collector of Central Excise vs Parle Export (P) Ltd. 1988 (38) ELT 741 (SC) and Orient Weaving Mills Pvt. Ltd, vs. Union of India 1978(2) ELT J311 (SC) Constitution Bench.

11. In view of the above, Government finds no infirmity in the order of Commissioner (Appeals) and hence uphold the same.
12. Revision Application is thus rejected as above.
13. So, ordered.



( **RIMJHIM PRASAD** )

Joint Secretary to the Government of India

M/s Unique Wire Industries,  
AB-5, Nandanvan Industrial Estate,  
Opp. ACC Cement Research,  
Teen Hath Naka,  
Thane (W) – 400604.

ATTESTED



(सहायक सचिव / Joint Secretary)  
सहायक सचिव (आयुक्त, अपील) / Joint Secretary (Commissioner)  
CEA (Appeals) (आयुक्त, अपील) / CEA (Appeals)  
विभागाध्यक्ष (आयुक्त, अपील) / Joint Secretary (Commissioner)  
Ministry of Revenue (आयुक्त, अपील) / Ministry of Revenue  
भारत सरकार / Govt. of India  
नई दिल्ली / New Delhi



**ORDER NO. 26/2016-CX DATED 29.01.2016**

Copy to:

1. The Commissioner of Central Excise, Raigad Commissionerate, Ground Floor, Kendriya Utpad Shulk Bhavan, Sector-17, Plot No. 1, Khandeshwar, Navi Mumbai-410206.
2. The Commissioner of Central Excise (Appeals-II) Mumbai Zone, 3<sup>rd</sup> Floor, Utpad Shulk Bhavan, Bhandra Kurla Complex, Bhandra (E), Mumbai
3. The Assistant Commissioner Central Excise, Raigad, Ground Floor, Kendriya Utpad Shulk Bhavan, Sector-17, Plot No. 1, Khandeshwar, New Panvel.
4. Shri R.V.Shetty, Advocate, 101-E, Sterling Court, Next to Maheshwari Nagar, Orkay Mill Road, MIDC, Andheri (E), Mumbai.
5. PA to JS(RA)
6. ✓ Guard File.
7. Spare copy.

ATTESTED



(B.P.Sharma)  
OSD (Revision Application)

(सहायक सचिव/Assistant Sharma)  
सहायक सचिव/Assistant Commissioner  
C.E.C. (Revision Application)  
विश्व मंत्रालय (Ministry of Finance)  
Ministry of Finance (Dept. of Rev.)  
भारत सरकार/Govt. of India  
नई दिल्ली/New Delhi



