REGISTERED SPEED POST AD

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. 195/202-204/17-RA
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F.No. 195/10-11/WZ/18-RA /
F.No. 195/230/17-RA   Date of Issue: 27.01.2023

ORDER NO. 26-33/2023-CX (WZ)/ASRA/MUMBAI DATED 25.01.2023 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 THE CENTRAL EXCISE ACT, 1944.

Applicant : M/s. Axalta Coating Systems India Pvt. Ltd.
Plot No. KV-1/2, Savli GIDC,
Village – Alindra,
Manjusar – 391775.

Respondent : The Commissioner of CGST & Central Excise, Vadodara-I

Subject : Revision Application filed under Section 35EE of the Central Excise Act, 1944 against Orders-in-Appeal No. VAD-EXCUS-001-APP-497 to 499 /2016-17 dated 10.01.2017, VAD-EXCUS-001-APP-178-179/2017-18 Dated 03.07.2017, VAD-EXCUS-001-APP-326-327/2017-18 Dated 21.08.2017 & No. VAD-EXCUS-001-APP-559/2016-17 Dated 14.02.2017 passed by the Commissioner(Appeals-I), Central Excise, Customs & Service Tax, Vadodara.

ORDER

The revision application has been filed by M/s. Axalta Coating Systems India Pvt. Ltd., Plot No. KV-1/2, Savli GIDC, Village – Alindra, Manjusar – 391775 (hereinafter referred to as "the applicant") against the Orders-in-Appeal No. VAD-EXCUS-001-APP-497 to 499 /2016-17 dated 10.01.2017, VAD-EXCUS-001-APP-178-179/2017-18 Dated 03.07.2017, VAD-EXCUS-001-APP-326-327/2017-18 Dated 21.08.2017 & No. VAD-EXCUS-001-APP-559/2016-17 Dated 14.02.2017 passed by the Commissioner(Appeals-I), Central Excise, Customs & Service Tax, Vadodara.

2. The applicant had filed rebate claims before the Assistant Commissioner, Division-I, Vadodara-I. After following due process of law, the rebate claims were rejected on certain grounds vide his Orders-in-Original No. Rebate/1331/Axalta/Div-I/16-17, No. Rebate/1332/Axalta/Div-I/16-17 & No. Rebate/1333/Axalta/Div-I/16-17 all dated 18.10.2016, No. Rebate/2299/Axalta/Div-I/16-17, No. Rebate/2300/Axalta/Div-I/16-17 both dated 21.03.2017, No. Rebate/0901/Axalta/Div-I/17-18 dated 13.06.2017, No. Rebate/1035/Axalta/Div-I/17-18 dated 21.06.2017 & No. Rebate/1708/Axalta /Div-I/16-17 dated 26.12.2016.

3. The applicant being aggrieved by the Orders filed appeal before the Commissioner(Appeals). The Commissioner(Appeals) took up the case for decision after granting the applicant an opportunity for personal hearing. He found that the applicant had not produced any documentary evidence to establish payment of duty on the goods exported. He further noted that the applicant had not exported the goods directly from a factory or warehouse. On the basis of these findings, the Commissioner(Appeals) rejected the appeal filed by the applicant vide his Orders-in-Appeal No. VAD-EXCUS-001-APP-497 to 499 /2016-17 dated 10.01.2017, VAD-EXCUS-001-APP-178-

179/2017-18 Dated 03.07.2017, VAD-EXCUS-001-APP-326-327/2017-18 Dated 21.08.2017 & No. VAD-EXCUS-001-APP-559/2016-17 Dated 14.02.2017.

4. Aggrieved by the Orders-in-Appeal dated 10.01.2017 passed by the Commissioner(Appeals), the applicant filed revision application on the following grounds:

4.1 The applicant is the manufacturer of the goods exported out of India. The goods were duty paid and such duty was paid by the applicant himself. It is also a fact that the applicant had exported such goods from another registered premises "depot" of the applicant itself, after undertaking all formalities for removal of such goods outside factory. The first ground the rebate claim is sought to he denied just because the rebate is claimed by the applicant, whereas the exports had taken place from their dealer's premises, the Department is denying the rebate claim for the reason that the claim has been filed by the applicant at Vadodara, whereas the same shall have been filed by the dealer who exported the goods and paid the duty from their RG-23 D register.

4.2 In respect to the said discrepancy, applicant relied upon the Circular 294/10/94-CX dated 30.01.1997 issued by CBEC, whereby the Board has clarified when goods are clearly identifiable and co-related to the good, cleared from factory on payment of duty, the condition of exports being made directly from the factory/warehouse should be deemed to have been waived. Other technical deviations not having revenue implications, may also be condoned.

4.3 Further, CBEC vide Circular No. 428/61/98-CX dated 02.11.98 has clarified that goods can be cleared for home consumption on payment of duty and the same can be exported by a trader subsequently under claim for rebate without obtaining any disclaimer from the manufacturer of the exported goods.

4.4 It must be appreciated that the duty was collected on goods at Vadodara, which were exported out of India. The depot also belongs to the applicant only, and technically is the same person. As per para 8.1 of Chapter 8 CBEC's Excise Manual of supplementary Instructions, rebate claim can be claimed only from the two authorities, namely JAC/JDC of the manufacturer or from Maritime Commissioner. That the applicant had accordingly claimed the same at the premises of the manufacturer, instead of the depot, and which is in order. As such, denial of rebate on such ground is therefore legally untenable.

4.5 That moreover the impugned order has relied upon the decision of Oswal Chemicals & Fertilizers Ltd, V.s CCE as reported in 2004(164) ELT 89(Tri-Del) in order to furnish an argument that there must be "locus standi" of the person who files refund claim. The decision further holds that "Any person claiming refund of any duty of excise may make an application for refund of such duty to the Assistant Commissioner of Central Excise before the expiry of six months from the relevant date in such form and manner as may be prescribed and the application shall he accompanied by such documentary or other evidence (including the documents referred to in Section 12 A) as the applicant may furnish to establish that the amount of duty of excise in relation to which such refund is claimed was collected from them, or paid by him, and the incidence of such had not been paid passed on him to any other person". Or it must be seen that the applicant is required to furnish documentary evidence to establish that the amount of duty of excise in respect of which such refund is claimed was collected from him, or paid by him. (emphasis supplied)".

4.6 Accordingly, they submitted that the contention that whether the dealer is covered under the definition of factory or warehouse is not relevant to the present dispute involved. The applicant contends so because the duty was evidently paid at the applicant's factory premise only. The goods were

cleared on payment of duty from applicant's factory gate to the dealer's premises. Thereafter the goods were cleared from the dealer's premises by reversing the credit availed on the goods exported and no specific duty was paid. Hence it would admittedly amount to payment of duty by the applicant from their premises and not from the applicant's Dealer's premises.

4.7 That the concluding portion of Para 7 of the impugned order states that the applicant has not produced documentary evidence that they paid the duty which is being claimed as rebate, whereas this was otherwise amply clear from the records at all times. Being a registered Dealer, in fact there was a one to one co-relation between documents and credit entry available at the time of export to justify duty paid nature of goods being exported. In any case, the impugned order has only discussed locus standi and importance of Central Excise registration and concluded that "in view of the above" the applicant could not produce evidence to establish that they have paid duty which is being claimed as rebate and hence rejected the rebate claim. The claim is not being strictly speaking rejected on the grounds that it was claimed by a wrong person or before wrong jurisdictional JAC. That this is nothing but traveling beyond the scope of the proceedings in as much as the lower authority had rejected the claims on different grounds.

4.8 The second ground adopted for denying the rebate claim is that the applicant had not submitted the triplicate and quadruplicate copies of the ARE-1 No. 002/15-16 dated 20.05.2015 and hence it is not possible to compare the details mentioned in the original ARE-1 as laid down in para. 3(b)(ii) of Notification No. 19/2004-CE(NT). It has to be clarified that the said non-submission of the triplicate quadruplicate copy of the ARE-1 was on account of non-acceptance of the triplicate copy by the range superintendent. A communication in respect to such non-acceptance was further made to the Assistant Commissioner vide letter dated 13.05.2016.

Accordingly, such defect of non-submitting of the Triplicate copy cannot be addressed to the applicant and eventually be one of the reasons for denying the rebate claim.

4.9 The third reason proposed for denying the rebate claim is that the applicant has not mentioned the date of shipment in Part-B of the ARE-1 No. 002/15-16. In this reference they clarified that date of shipment and such other details were mentioned by the Customs Authority during the examination of the goods and not by the applicant. The Customs authority had endorsed the ARE-l and also the same is reflecting in the shipping bill filed by the applicant. The same is evident from the shipping bill itself, when reference of ARE-1 is made substantiating the claim of the applicant that if ARE-1 is reflecting in the Shipping Bill it qualifies as sufficient proof and the same shall be taken into consideration. Further what is essential for claiming the rebate claim is that goods are duty paid and exports are made, and it is an undisputed fact that exports are made and accordingly rebate claim cannot be denied for a procedural lapse if any exist.

4.10 Be that as it may, the impugned order repeatedly admits the fact that credit was reversed under RG 23D register at the depot, and as such, something which is not in dispute at all, there is no question of substantiating the same by the applicant. The rebate therefore cannot be denied to the applicant on such grounds.

4.11 It is submitted that that in the case of M/s. Suksha International vs. UOL - 1989 (39) E.L.T. 503 (S.C.) the Hon'ble Supreme Court has observed that an interpretation unduly restricting the scope of beneficial provision is to be avoided so that it may not take away with one hand what the policy gives with the other. In the Union of India vs. A.V. Narasimhalu 1983 (13) E.L.T. 1534 (S.C.), the Apex Court also observed that the administrative authorities should instead of relying on technicalities, act in a manner consistent with the broader concept of justice. Similar observation was made

by the Apex Court in the Formica India vs. Collector of Central Excise-1995 (77) E.L.T. 511 (S.C.) in observing that once a view is taken that the party would have been entitled to the benefit of the notification had they met with the requirement of the concerned rule, the proper course was to permit them to do so rather than denying to them the benefit on the technical grounds that the time when they could have done so, had elapsed. While drawing a distinction between a procedural condition of a technical nature and a substantive condition in interpreting statute similar view was also propounded by the Apex Court in Mangalore Chemicals and Fertilizers Ltd. vs. Dy Commissioner - 1991 (55) E.L.T. 437 (S.C.). In fact, as regards rebate specifically, it is now a settled law that the procedural infraction of Notifications, circulars, etc. are to be condoned if exports have really taken place, and the law is settled now that substantive benefit cannot be denied for procedural lapses. Procedure has been prescribed to facilitate verification of substantive requirement. The core aspect or fundamental requirement for rebate is its manufacture and subsequent export. As long as this requirement is met other procedural deviations can be condoned. This view of condoning procedural infractions in favour of actual export having been established has been taken by Tribunal /Govt. of India in a catena of orders, including Birla VXL Ltd.-1998 (99) E.L.T. 387 (Trib.), Alfa Garments -1996 (86) E.L.T. 600 (Tri.), T.L. Cycles 1993 (66) E.L.T. 497 (Trib.), Atma Tube Products-1998 (103) E.L.T. 270 (Trib.), Creative Mobus - 2003 (58) RLT 111 (G.O.I.). Ikea Trading India Ltd - 2003 (157) E.L.T. 359 (G.O.I.) and Cotfab case 2005 (205) E.L.T. 1027 (G.O.I).

4.12 It is submitted that rebate benefit is an export incentive, and one of the most common avenues to neutralize the duties paid on export goods. All procedural lapses need to be condoned and a lenient view requires to be taken for the sake of granting such benefit related to exports. Any procedure prescribed by a subsidiary legislation has to be in aid of justice and procedural requirement cannot be read so as to defeat the cause of justice as held by the Hon'ble Rajasthan High Court in the case of Gravita India

Ltd. 2016(334) E.L.T. 321(Raj). That similar view stands taken in the case of In Re: Jocund India Ltd. 2015(330) E.L.T. 805(G.O.I.).

That for the reasons stated hereinabove, in as much as the rebate claims deserves to be sanctioned to the applicant.

5. A Personal hearing was held in this case on 20.10.2022 and Shri Saurabh Dixit, Advocate appeared on behalf of the applicant. He submitted that goods were exported from Depot. He contended that manufacturer and depot are same. He requested to allow their application.

6. Applicant made additional submissions vide their letter dated 20.10.2022 wherein they contended that:

6.1 Whether rebate is available on traded excisable goods:-

In the present case, it is the very same legalentity, who was at the factory as also the depot. It is not a case as if goods were purchased from the applicant by a 3rd party trader, who exported the same and the applicant is claiming rebate of duty paid by such trader. In fact even if this was the case, the rebate would have been otherwise allowable, however, the present case stands on a much better footing, inasmuch as the applicant itself had exported the finished goods, albeit from its depot, instead of directly from factory gate. In other words, it is not correct to assume that the goods are "traded goods" at all.

6.2 Is the manufacturer the right person for claiming rebate when duty has been paid by the dealer or otherwise?:-

a. The entire discussion in the impugned order regarding "locus standi" of the applicant to claim rebate, is hardly sustainable. The case law relied upon distinguishable inasmuch as it was not a case of rebate, nor a case where manufacturer sent goods to depot from where it was exported and rate was claimed in this regard.

b. It is the very same legal entity, ie. the Applicant, who had paid duty at factory, and exported goods from own depot. The depot had duly reversed the credit of duty paid by factory, which is not disputed at all. As stated supra, the identity of goods is also not in dispute. The very fact that the impugned order observes at Para 6.2 that the dealer (Appellant depot) wrongly reversed the credit since they were not obliged to pay duty whereas the factory of the Appellant ought to have paid duty to claim rebate, is sufficient to show that the entire chain of events is otherwise not in dispute at all.

c. The Circular No. 294/10/94-CX dated 30.01.1997 issued by CBEC, clarifies that when goods are clearly identifiable and co-related to the goods cleared from the factory on payment of duty, the condition of exports being made directly from the factory / warehouse should be deemed to have been waived. Other technical deviations not having revenue implications, may also be condoned.

d. Since the depot and the factory are one and the same person, there is no reason to presume, as done by the lower authorities, that the rebate was claimed by factory and not depot. In other word, there is no embargo to consider that the applicant in the capacity as a depot, had claimed rebate, albeit before the jurisdictional authorities at factory. This is also because duty was originally paid at factory gate only.

e. It must be appreciated that the duty was collected on goods at Vadodara, which were exported out of India. The depot also belongs to the Applicant only, and technically it is the same person. As per para 8.1 of Chapter 8 CBEC's Excise Manual of supplementary Instructions, rebate claim can be claimed only from the two authorities, namely JAC/JDC of the manufacturer or from Maritime Commissioner. That the Appellant had accordingly claimed the same at the premises of the manufacturer, instead of the depot, and which is in order. As such, denial of rebate on such ground is therefore legally untenable.

f. That further the OIO had relied upon the decision of Coromandel Agrico P. Ltd. 2012(281) E.L.T. 730 (G.O.I.), seems actually supporting the case of the Applicant, rather than resulting in denial of rebate. Since as per the said decision, rebate can be claimed before JAC having jurisdiction over factory, in addition to warehouse and Maritime Commissioner. In fact, the applicant has claimed rebate from the JAC having jurisdiction over the factory. The said decision also requires rebate to be claimed at the factory of manufacture only. As such, there is no reason why the present rebate claim being filed before the JAC having jurisdiction over the factory of the Appellant was improper, as wrongly assumed by the lower authorities.

g. It has been held in the case of In Re : Met Trade India Ltd. 2014 (311) E.L.T. 881 (G.O.I.) that rebate in such case must be allowed to exporter, where duty payment and export are otherwise not in dispute.

6.3 <u>Is dealer's premises covered under the definition of factory or warehouse?:-</u>

a. The above issue is academic and does not affect operation and granting of rebate to the exporter herein. The dealer is not a trader of goods in the present case, but merely depot of the manufacture. It was only to pass on credit to buyers (in case of domestic sale) that dealer registration was obtained. It is a blessing in disguise since this otherwise helps in establishing link / identity of goods being cleared from factory – depot-export, of the very same goods.

b. The depot need not be a factory at all, especially in light of the above Board Circulars, which have dispensed with the requirement of exporting goods directly from factory, where identity of goods are otherwise established. This issue though identified in the impugned order, has not been addressed to in any negative manner anyway.

For the reasons, the rebate claims made by the Applicant deserve to be accepted. The provision Applications therefore may be allowed with consequential relief.

7. Government has carefully gone through the relevant case records, perused the impugned Order-in-Appeal, Order-in-Original and the revision application filed by the applicant. It is observed that the issues involved in the present revision application are essentially twofold; viz. the fact that the goods have not been exported from a factory or warehouse of the manufacturer and whether payment of duty on the goods exported can be established.

8.1 It is observed by the Government that while rejecting the appeal filed by the applicant, the Commissioner(Appeals) has mainly held that the dealer's premises is not covered under the definition of factory or warehouse. In this regard condition (2)(a) and condition (2)(b) of Notification No. 19/2004-CE(NT) dated 06.09.2004 are reproduced below for lucidity:

"(2) Conditions and limitations : -

(a) that the excisable goods shall be exported after payment of duty, directly from a factory or warehouse, except as otherwise permitted by the Central Board of Excise and Customs by a general or special order;

(b) *the excisable goods shall be exported within six months from the date on which they were cleared for export from the factory of manufacture or warehouse or within such extended period as the Commissioner of Central Excise may in any particular case allow;"*

8.2 On going through both the conditions, it can be seen that they mandate that excisable goods shall be exported directly from a factory or warehouse after payment of duty and that they shall be exported within six months from the date on which they have been cleared for export from the factory of manufacture or warehouse and also allow for exceptions which the CBEC and the Commissioner of Central Excise may specifically allow. The

fact that the goods have not been exported from a factory is clear. However, it is apparent from a simple reading of these conditions that the notification contemporises the terms "factory" and "warehouse" in both the conditions. The inference that ensues is that the excisable goods after payment of duty can also be exported directly from a warehouse. Similarly, the excisable goods are to be exported within six months from the date on which they are cleared for export from the warehouse. It must be borne in mind that when the text of the notification has in very clear words placed a "factory" and a "warehouse" on par, there is no reason why this parity should be whittled down or disregarded. Ergo, the meaning of the term "warehouse" has to be appreciated and applied with reference to the CER, 2002.

8.3 The definitions set out in Rule 2 of the CER, 2002 include the definition of "warehouse" in clause (h) thereof which reads as under:

"RULE 2. Definitions. – In these rules, unless the ....

(h) "warehouse" means any place or premises registered under rule 9; and"

On going through the definition, the meaning of the term "warehouse" becomes very clear. It is simply any place or premises registered under Rule 9 of the CER, 2002. The next question that would obviously arise is which are the places or premises required to be registered under Rule 9 of the CER, 2002 and the answer to this must be had by having resort to the text of the rule.

"Rule 9. Registration. – (1) Every person, who produces, manufactures, carries on trade, holds private store-room or warehouse or otherwise uses excisable goods, shall get registered :"

In the present case, the applicant has obtained dealer registration to carry on trade in excisable goods with the advantage of passing on the central excise duty paid on these excisable goods to their buyers as CENVAT credit on the basis of invoices issued by them. As such, the words "any place or premises registered under rule 9" appearing in the definition in Rule 2(h) of the CER, 2002 give it wide amplitude by virtue of which any place or premises which is registered under Rule 9 of the CER, 2002 is deemed to be

a warehouse. Therefore, merely by virtue of the fact that the applicant dealers premises is registered under Rule 9 of the CER, 2002, the said premises becomes a warehouse and hence must be treated on par with a factory as envisaged in Notification No. 19/2004-CE(NT) dated 06.09.2004.

8.4 Government holds that there is no need to import the definition of "warehouse" in Rule 140 of the CER, 1944 and apply it to the CER, 2002, when the CER, 2002 specifically sets out the definition of "warehouse" in Rule 2(h) of the CER, 2002. Since the notification which has been issued under the statute as a delegated legislation itself is explicit, the principle espoused in the legal maxim *'a verbis legis non-est recedendum'*(from the words of the law, there shall be no departure) must be adhered to.

8.5 In the result, in terms of the conditions set out in the notification, the registered dealer premises of the applicant is a permissible place for export of duty paid goods. The fact that the goods have not been cleared from the factory of the manufacturer of the excisable goods will not disentitle the applicant from the benefit of rebate of central excise duties paid on the exported goods.

9. The other main ground for rejection of rebate claims was that the applicant had not produced any documentary evidence to establish payment of duty on the goods exported. Government notes that Commissioner (Appeals) has already observed that the subject goods were removed from factory of manufacturer to the dealer's premises on payment of duty and the dealer reversed the appropriate duty on exported goods. It is an admitted fact that the duty was evidently paid at the applicant's factory premise and the goods were cleared from applicant's factory gate to the dealer's premises. Thereafter the goods were cleared for export from the dealer's premises on payment of duty vide RG-23D register. It can be seen from the text of the Notification No. 19/2004-CE(NT) dated 06.09.2004 that as in the case of clearance for export, both the factory and a warehouse which includes a

registered dealer, are authorised to carry out self-sealing and self-certification.

10. Government finds that there are many cases where Government of India has conclusively held that the failure to comply with requirement of examination by jurisdictional Central Excise Officer in terms of Board Circular No.294/10/97-Cx dated 30.01.1997 may be condoned if the exported goods could be co-related with the goods cleared from the factory of manufacture or warehouse. Government places its reliance on para 11 of GOI Order Nos. 341-343/2014-CX dated 17.10.2014 [reported in 2015 (321) E.L.T. 160(G.O.I] In RE: Neptunus Power Plant Services Pvt. Ltd. In this case, in order to examine the issue of corelatibility, Government made sample analysis of the exports covered vide some of the shipping bills. Further, description, weight and quantities has to tally with regard to description mentioned in mentioned in ARE-1 and other export documents including Shipping Bill and export invoices. In the instant case Government notes that Commissioner (Appeals) has already observed that the subject goods were exported under statutory documentation and there had been enough compliance to establish the duty paid character and correlation of the goods in question.

11. As such, Government observes that there are sufficient corroboratory evidences to establish that the goods covered under excise documents had actually been exported vide impugned export documents. Government also notes that, while allowing the Revision application in favour of the applicant, Government at para 12 of its aforementioned Order [2015 (321) E.L.T. 160(G.O.I)] observed as under:-

> *"In this regard Govt. further observes that rebate/drawback etc. are export-oriented schemes, A merely technical interpretation of procedures etc. is to be best avoided if the substantive fact of export having been made is not in doubt, a liberal interpretation is to be given*

in case of any technical lapse. In Suksha International v. UOI - 1989 (39) E.L.T. 503 (S.C.), the Hon'ble Supreme Court has observed that, an interpretation unduly restricting the scope of beneficial provision is to be avoided so that it may not take away with one hand what the policy gives with the other. In the Union of India v. A.V. Narasimhalu - 1983 (13) E.L.T. 1534 (S.C.), the Apex Court also observed that the administrative authorities should instead of relying on technicalities, act in a manner consistent with the broader concept of justice. Similar observation was made by the Apex Court in the Formica India v. Collector of Central Excise - 1995 (77) E.L.T. 511 (S.C.) in observing that once a view is taken that the party would have been entitled to the benefit of the notification had they met with the requirement of the concerned rule, the proper course was to permit them to do so rather than denying to them the benefit on the technical grounds that the time when they could have done so, had elapsed. While drawing a distinction between a procedural condition of a technical nature and a substantive condition in interpreting statute similar view was also propounded by the Apex Court in Mangalore Chemicals and Fertilizers Ltd. v. Dy. Commissioner - 1991 (55) E.L.T. 437 (S.C.). In fact, as regards rebate specifically, it is now a title law that the procedural infraction of Notifications, circulars, etc., are to be condoned if exports have really taken place, and the law is settled now that substantive benefit cannot be denied for procedural lapses. Procedure has been prescribed to facilitate verification of substantive requirement. The core aspect or fundamental requirement for rebate is its manufacture and subsequent export. As long as this requirement is met other procedural deviations can be condoned.-This view-of condoning procedural-infractions in favour of actual export having been established has been taken by Tribunal/Govt. of India in a catena of orders, including Birla VXL Ltd. - 1998 (99) E.L.T. 387 (Tri.), Alpha Garments - 1996 (86) E.L.T. 600 (Tri.), T.I. Cycles - 1993 (66) E.L.T. 497 (Tri.), Atma Tube Products - 1998 (103) E.L.T. 270 (Tri.), Creative Mobus - 2003 (58) R.L.T. 111

(G.O.I.), Ikea Trading India Ltd. - 2003 (157) E.L.T. 359 (G.O.I.) and a host of other decisions on this issue".

12. Government therefore modifies the Orders-in-Appeal No. VAD-EXCUS-001-APP-497 to 499 /2016-17 dated 10.01.2017, VAD-EXCUS-001-APP-178-179/2017-18 Dated 03.07.2017, VAD-EXCUS-001-APP-326-327/2017-18 Dated 21.08.2017 & No. VAD-EXCUS-001-APP-559/2016-17 Dated 14.02.2017 passed by the Commissioner(Appeals-I), Central Excise, Customs & Service Tax, Vadodara by directing the original authority to re-examine the rebate claims filed by the applicant in the light of the observations recorded hereinbefore and consider the rebate claims for sanction, if otherwise found in order. The exercise of re-examination of rebate claims may be completed within eight weeks of receipt of this order.

(SHRAWAN KUMAR)
Principal Commissioner & Ex-Officio
Additional Secretary to Government of India

ORDER No.26-33 /2023-CX (WZ) /ASRA/Mumbai DATED 25.01.2023

To,
M/s. Axalta Coating Systems India Pvt. Ltd.
Plot No. KV-1/2, Savli GIDC,
Village – Alindra,
Manjusar – 391775.

Copy to:

1) The Pr. Commissioner of CGST & CX, Vadodara-I.
2) The Commissioner (Appeals-I), CGST & CX, Vadodara.
3) Shri Saurab Dixit, Advocate, B-216/217, Monalisa Commercial Centre, Beside Samanvay Saptarshi Manjalpur, Vadodara-390011.
4) Sr. P.S. to AS (RA), Mumbai.
5) Guard file.
6) Spare Copy.