

REGISTERED
SPEED POST



F.No.198/97/15-RA
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.....

Order No. 261/2018-Cx dated 01-5-2018 of the Government of India,
passed by Shri R.P.Sharma, Principal Commissioner & 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.320(SLM) CE/JPR/2014 dated 21.11.2014, passed
by the Commissioner (Appeals), Jaipur

Applicant : Principal Commissioner, Central Excise, Alwar

Respondent : M/s S M Herbals Pvt. Ltd., Bhiwadi

ORDER

A revision application F.No.195/97/15-RA dated 21.08.15 is filed by the Principal Commissioner, Central Excise, Alwar (hereinafter referred to as the applicant) against the Order-in-Appeal No. 320(SLM) CE/JPR/2014 dated 21.11.2014, passed by the Commissioner of Central Excise (Appeals), Jaipur, who has rejected the Assistant Commissioner's Order rejecting the respondent's rebate claims and allowed the respondent's appeals before him.

2. The brief facts leading to the present proceeding before the Government are that the respondent, M/s S M Herbals Pvt. Ltd., Bhiwadi, had filed rebate claim for duty of excise paid on exported goods which was rejected by the original adjudicating authority. Being aggrieved, the respondent filed appeal against this order before Commissioner (Appeals) and the same was allowed by the Commissioner (Appeals) vide the above said order-in-appeal dated 21/11/2014.

3. The revision application is filed mainly on the ground that the chapter headings of the goods given in different export documents vary and as a result the identity of the exported goods is not established.

3. A personal hearing was held in this case on 09.03.18 and it was attended by Mrs. Diva Devarsha, Advocate, for the respondent who furnished compilation of case laws and relevant legal provisions. However, no one appeared for the applicant, no reason for non-appearance is informed and no request for any other hearing is also received from them. It can thus be implied that they are not interested in availing any hearing in the matter.

4. On examination of the Order-in-Original, the Commissioner (Appeals)'s order and other related documents, the Government finds that rebate of duty in this case has been rejected solely on the ground that the ARE-1 and the related shipping bill had different chapter headings and as a result the export of goods is not established. While the respondent has not denied that two different chapter headings were given in ARE-1 and shipping bill, they have pleaded that it has happened because the Customs authorities insisted for giving a sub-heading in the shipping bill based on the Advance Licence which mentioned Sub-heading (29392090) for the exported goods. Whereas they were registered with central excise for manufacture of goods under Chapter 13 which was mentioned in their ARE-I and excise invoice. It is also pleaded that the description as well as other details like consignee, weight etc. completely tally in invoice, shipping bill and ARE-1. The goods were also cleared from factory under the supervision of central excise officers and the export thereof has been endorsed by the customs authorities on the back of ARE-1. Government has also found these facts true and on the basis of matching of all the above mentioned particulars only, the Commissioner (Appeals) has allowed the rebate of duty to the respondent. Even the rate of duty under Chapter 13 and 29, which are mentioned in shipping bills and ARE-1s respectively for classification of the exported goods, is also the same and the rebate of duty is undoubtedly claimed for the amount of central excise duty actually paid by the applicant in respect of the Comptothechin. Thus, except the different sub-headings given in the ARE-1 and Shipping Bill, all other details of the goods such as description of goods, the weight and quantity etc. completely match in export documents Therefore, the Government does not have any doubt and agrees with the Commissioner

(Appeals) that the impugned goods have been exported on payment of duty the respondent is eligible for rebate of duty and it cannot be denial merely due to two different sub-headings given in ARE-1 and Shipping Bill

6. Accordingly, the revision application filed by the revenue is rejected.

R.P. Sharma
1.5.18

(R.P.Sharma)

Additional Secretary to the Government of India

The Principal Commissioner,
Central Excise Commissionerate,
Block A, Surya Nagar, Alwar.

Order No. 261/18-Cx dated 01-5-2018

Copy to:

1. M/s S M Herbals Pvt. Ltd., A-1132 RIICO Industrial Area, Ph-III, Bhiwadi-301019
2. Commissioner of Central Excise (Appeals), Jaipur, New Central Revenue Building, "C" Scheme, Jaipur-302505
3. The Assistant Commissioner, Central Excise Division, Bhiwadi
4. PA to AS(RA)
5. Guard File.
6. Spare Copy

ATTESTED

N.D.
1-5-18

(Nirmala Devi)
(Section Officer)