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SPEED POST



F.No.198/106/15-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. 269/2018-Cx dated 01-5-18 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.373(SLM) CE/JPR/2015 dated 29.05.2015, passed
by the Commissioner (Appeals), Jaipur.

Applicant : Commissioner, Central Excise, Alwar

Respondent : M/s Paracoat Products Ltd., Bhiwadi

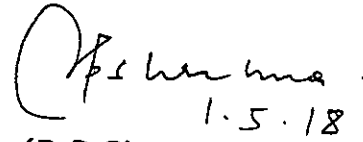
ORDER

A Revision Application no. 198/106/15-RA dated 24.09.15 is filed by the Commissioner, Central Excise, Alwar (hereinafter referred to as the applicant) against the Order-in-Appeal No. 373(SLM) CE/JPR/2015 dated 29/05/2015, passed by the Commissioner of Central Excise (Appeals), Jaipur, who has set aside the Assistant Commissioner's Orders 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 Paracoat Products Ltd., Bhiwadi, had filed rebate claims for duty of excise paid on exported goods which were 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 29/04/2015.
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.
4. A personal hearing was fixed in this case on 21.03.18 and 10/04/2018 but no one appeared for the applicant as well as respondent. 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 and, therefore, the case is taken up for disposal on the basis of records available.

5. 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. The respondent did not deny the above charge of the revenue before the Commissioner (Appeals), but claimed that the change in central excise tariff heading in the Shipping Bill does not alter the fact of duty payment on the export goods and there is no evidence that the goods cleared from the factory were not exported by them. The Commissioner (Appeals) has also noted in his order that mentioning of different classification of the goods does not deprive the respondent from claim of rebate of duty when the goods have suffered appropriate duty and exported out. Above all, he has categorically observed in the order-in-appeal that except Chapter Headings, all other particulars such as quantity, no. of packages, gross weight, net weight, rate of duty and value etc. tally in all the export documents, the goods were cleared from the factory under supervision of the central excise officers and the customs authorities have certified the export of the same goods. The government has also noticed that the applicant has not alleged and made out any case that the goods cleared from the factory were diverted to the domestic tariff area. Considering these facts, the government is inclined to agree with the conclusion of the Commissioner (Appeals) that the goods cleared under ARE-I have only been exported and the rebate of duty has been correctly allowed to the respondent by the Commissioner (Appeals).

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


1.5.18

(R.P.Sharma)

Additional Secretary to the Government of India

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

Order No. 268/18-Cx dated 01-5-2018

Copy to:

1. M/s Paracoat Products Ltd., E-1225, RIICO Industrial Area, Ph-I, Extn. Ghatal, 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


1-5-18

(Nirmala Devi)
(Section Officer)