

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**  
8<sup>th</sup> Floor, World Trade Centre, Cuffe Parade,  
Mumbai- 400 005

F. No. 195/789/12-RA

Date of Issue: 12/02/20

ORDER NO. 284/2020-CX (WZ) /ASRA/MUMBAI DATED 11-02 2020 OF THE GOVERNMENT OF INDIA PASSED BY SMT. SEEMA ARORA, PRINCIPAL COMMISSIONER & EX-OFFICIO ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA, UNDER SECTION 35EE OF THE CENTRAL EXCISE ACT, 1944.

**Applicant** : M/s. Garden Silk Mills Ltd.  
Village - Jolwa,  
Tal. Palsana,  
Dist. Surat

**Respondent** : Commissioner, Central Excise, Raigad

**Subject** : Revision Applications filed, under section 35EE of the Central Excise Act, 1944 against the OIA No. US/364/RGD/2012 dated 13.06.2012 passed by the Commissioner of Central Excise (Appeals-II), Mumbai.

**ORDER**

The revision application has been filed by M/s. Garden Silk Mills Ltd., Village - Jolwa, Tal. Palsana, Dist. Surat (hereinafter referred to as "the applicant") against OIA No. US/364/RGD/2012 dated 13.06.2012 passed by the Commissioner of Central Excise (Appeals-II), Mumbai.

2.1 The applicant had filed 21 rebate claims under the provisions of Rule 18 of the CER, 2002 read with Notification No. 19/2004-CE(NT) dated 06.09.2004 claiming rebate totally amounting to Rs. 51,69,000/-. The Deputy Commissioner(Rebate), Central Excise, Raigad sanctioned rebate claims totally amounting to Rs. 50,70,358/- vide his OIO No. 596/11-12/DC(Rebate)/Raigad dated 21.07.2011.

2.2 During the review proceedings, the Department found that the three rebate claims for a total amount of Rs. 6,99,669/- were wrongly sanctioned. On taking up the appeal for decision, the Commissioner(Appeals) observed that the rebate sanctioning authority is to satisfy himself about the export of the goods and their duty paid character before sanctioning the rebate. On examining the documents filed with the rebate claims, the Commissioner(Appeals) observed that the adjudicating authority had sanctioned the rebate claim without valid documents, sanctioned claims although the correct invoice was not enclosed, sanctioned claims in cases where the central excise seal no.'s were different and sanctioned claims where there was variance in the quantity of goods exported. The Commissioner(Appeals) found that the sanction of the above rebate claims showed non-compliance with the requirement of verification of duty paid nature of goods before sanction of rebate. He therefore vide his OIA No. US/364/RGD/2012 dated 13.06.2012 set aside the OIO and allowed the appeal filed by the Department.

3. The applicant being aggrieved by the OIA No. US/364/RGD/2012 dated 13.06.2012 has filed revision application on the following grounds:

(a) The applicant averred that the impugned order was bad in law and that it was contrary to the provisions of the CEA, 1944 and the rules made thereunder.

(b) That the learned Commissioner(Appeals) had failed to take note of the various clarifications given by them on the factual aspects and the mistakes in the documents attached to the claims filed by them.

4. The applicant was granted a personal hearing on 20.06.2018. Shri Willingdon Christian, Advocate appeared on behalf of the applicant and submitted that the benefit of rebate cannot be denied due to technical irregularities. He prayed that the OIA be set aside and the revision application be allowed. Due to change in the Revisionary Authority, the applicant was again granted a personal hearing on 27.11.2019. Shri Mayur Shroff, Advocate appeared on behalf of the applicant and reiterated their submissions at the time of earlier hearing. The Advocate stated that there were no mismatches and that the impugned OIA merely reproduces submissions. He further submitted that all the documents indicated that the figures tallied. In the written submissions dated 09.12.2019 filed by the applicant, they explained the various mismatches by pointing out the proper documents which established co-relation with the export documents, quantity exported and duty payment particulars.

5. 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. On perusal of records, Government observes that the applicant filed rebate claims in respect of duty paid on exported goods. However, there were several errors in the documents filed/the details mentioned in the rebate claims. In spite of these defects in the rebate claims, they passed muster before the rebate sanctioning authority and were sanctioned by him. On appeal by the Department before the Commissioner(Appeals), the Commissioner(Appeals) has taken note of the errors/discrepancies in the rebate claims and allowed the appeal of the Department. While doing so, the Commissioner(Appeals) has failed to take cognizance of the submissions filed by the applicant before him. The applicant is aggrieved by the impugned order and has therefore filed for revision.

6. Before making any observations about the impugned order, Government observes that although their counsel has stated at the time of personal hearing that there were no mismatches, the applicant himself has in their written submissions candidly admitted to several errors in the rebate claims filed by them. The clarification in the rejoinder filed by them before the Commissioner(Appeals) against the appeal filed by the Department runs into several pages. Admittedly, the applicant has been very negligent in the manner in which they have gone about the process of filing rebate claims. The sanctity of the process and the spirit of being lenient in case of technical lapses where



rebate claim is otherwise admissible notwithstanding, it must be said that the applicant has taken things very lightly. Moreover, the Maritime Commissioner, the Deputy Commissioner (Rebate), Central Excise, Raigad has failed to notice even a single error. Government notes with disapproval the casual manner in which the Deputy Commissioner (Rebate), Central Excise, Raigad has scrutinized the rebate claims. Needless to say, if the rebate sanctioning authority had exercised due caution while scrutinizing these rebate claims, the discrepancies could have been got clarified and rebate sanctioned or rejected after due consideration/co-relation.

7. In so far as the impugned order is concerned, the Government observes that the Commissioner (Appeals) has taken note of the various discrepancies in the rebate claims filed by the applicant and rejected the three disputed claims on the basis of the Departments grounds of appeal. Government observes that the Commissioner (Appeals) has taken the submissions filed by the applicant on record. However, he has failed to take due cognizance of them. Government therefore holds that the impugned order is not a speaking order.

8. However, since the issues involve verification of facts, it would be in the interest of justice that the rebate sanctioning authority re-examines the rebate claims on the basis of the clarifications given by the applicant before the Commissioner (Appeals). Government therefore remands the case back to the rebate sanctioning authority for re-examination of the three rebate claims and disposal of these on merits on the basis of the clarifications given by the applicant before the Commissioner (Appeals). The applicant shall be allowed sufficient opportunity for personal hearing. The rebate claims would be admissible if the duty paid character of the exported goods is borne out by the documents produced by the applicant.

9. Government therefore sets aside the impugned order and disposes off the revision application in the above terms.

10. So ordered.

( SEEMA ARORA )

Principal Commissioner & Ex-Officio  
Additional Secretary to Government of India

ORDER No. 284/2020-CX (WZ) /ASRA/Mumbai DATED 11-02-2020

To,  
M/s. Garden Silk Mills Ltd.  
Village - Jolwa,  
Tal. Palsana,  
Dist. Surat

Copy to:

1. The Commissioner of CGST & CX, Belapur Commissionerate
2. The Commissioner of CGST & CX, (Appeals), Raigad
3. Sr. P.S. to AS (RA), Mumbai
4. Guard file
5. Spare Copy