

REGISTERED
SPEED POST



F.No.198/23-31/2015-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..5/1/18.

Order No. 30-38/2018-Cx dated 05-01-18 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 orders-in-appeal No.107-115(SLM)CE/JPR/2015 dated 28.02.15 passed by the Commissioner (Appeals) Jaipur-I~~

Applicant : Commissioner of Central Excise, Jaipur-I

Respondent : M/s Poddar Pigments Ltd., Jaipur (Rajasthan)

ORDER

Nine revision applications No.198/23-31/2015-RA dated 16.6.2015 are filed by Commissioner of Central Excise, Jaipur-I (hereinafter referred to as the applicant) against the Order-in-Appeal No.107-115(SLM)CE/JPR/2015 dated 28.02.15, passed by the Commissioner of Central Excise, Jaipur-I, who has allowed the appeal of the respondent M/s Poddar Pigments Ltd., Jaipur (hereinafter referred to as the respondent) who had filed an appeal against OIOs rejecting the rebate of duty to the respondent.

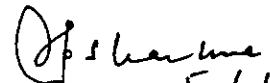
2. The revision applications are filed mainly on the ground that the sub-heading of the exported goods in central excise invoices and the shipping bills are different and thus it is not established that the goods cleared from the factory of the respondent on payment of duty were only exported. Hence, the Commissioner (Appeals) has committed an error by holding that the export of goods cleared from factory on payment of duty is established in this case and rebate of duty is admissible to the respondent.

3. A personal hearing was held in this case on 14.12.17 and it was attended by Shri Ashok Mehta, Sr.G.M. of the respondent, alongwith Shri Jatin Mahajan, Advocate. However, no one appeared on behalf of the applicant in this case. Even no request for any other date of hearing is received from the applicant from which it is implicit that the applicant is not interested in availing personal hearing. Hence this case is taken up for decision on the basis of available records.

4. On examination of the revision application, it is evident that the Commissioner (Appeals)'s Order has been challenged solely on the ground that the sub-headings of two exported goods namely Brown PP 101PP and Yellow PP 139 are given differently in the excise invoices and shipping bills and thereby the exported goods are different from the goods cleared from the factory of the respondent on payment of duty. Hence, as per applicant the rebate of duty has been wrongly allowed by the Commissioner (Appeals). However, no other evidence has been cited in the revision application or otherwise to support their case that the goods exported by the respondent are not the same as were cleared from the respondent's factory on payment of duty. The Government finds that the reason advanced by the applicant-

in the revision application is very weak and the export incentive like rebate of duty granted by Central Government to encourage export of goods cannot be denied on such technical reason alone. On the other hand the Commissioner (Appeals) in his Order has clearly observed that the description of the goods in ARE-1, proforma invoice, commercial invoice, packing list, shipping bills and other documents remained unchallenged and quantity, number of packages, gross weight, net weight, rate of duty, value etc. are same in shipping bills and other export documents like ARE-1s and excise invoices. Further, even Customs authorities have made a clear endorsement in part B of the AREs-1 to the effect that the goods cleared under ARE-1s have been shipped under their supervision. Realization of export proceed is also not in dispute. Considering all these evidences, the Government fully agrees with the Commissioner (Appeals)'s observations that the goods exported by the respondent are the same which were cleared under different ARE-1s on payment of duty and thus the rebate of duty has been correctly allowed by the Commissioner (Appeals) in his Order.

5. In the light of the above discussions, the Government does not find any fault in the Order of the Commissioner (Appeals) and the revision applications are rejected.


(R.P.Sharma) 5.1.18

Additional Secretary to the Government of India

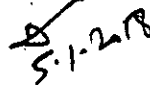
Commissioner of Central Excise, Jaipur,
New Central Revenue Building,
Statue Circle, "C" Scheme,
Jaipur-302505

Order No. ~~30-3818-Cx~~ dated ~~05-1-2018~~

Copy to:

1. M/s Poddar Pigments Ltd., E-10-11, F-14-26, RIICO Industrial Area, Jaipur-302022, Rajasthan
2. Commissioner of Customs & Central Excise-II (Appeals), Jaipur, New Central Revenue Building, Statue Circle, "C" Scheme, Jaipur-302505
3. The Assistant Commissioner, Central Excise Division-I, Jaipur
4. PA to AS(RA)
5. Guard File.
6. Spare Copy

ATTESTED


5.1.2018

(Debjit Banerjee)
STO (Revision Application)