REGISTERED / SPEED POST

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.195/211-213/2017-RA
F.No.195/214-218/2017-RA
F.No.195/268-271/2019-RA
F.No.195/08-11/2021-RA

Date of issue: 04.07.2023

ORDER NO. 302-317 /2023-CX (WZ)/ASRA/MUMBAI DATED 30.6.23 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. Weatherford Drilling & Production Services (India) Pvt. Ltd., (Unit-II)

Respondent : Commissioner of CGST, Vadodara – II.

Subject : Revision Applications filed under Section 35EE of the Central Excise Act, 1944 against the Orders-in-Appeal passed by Commissioner (Appeals-I), Central Excise, Customs & Service Tax, Vadodara / Commissioner, GST & Central Excise (Appeals), Vadodara.

ORDER

These Revision Applications are filed by the M/s. Weatherford Drilling & Production Services (India) Pvt. Ltd., (Unit-II) (hereinafter referred to as "the Applicant") against the following Orders-in-Appeal passed by the Commissioner (Appeals-I), Central Excise, Customs & Service Tax, Vadodara / Commissioner, GST & Central Excise (Appeals), Vadodara:

RA No	OIA No./date	OIO No./date	Amount (in Rs.)
195/211-213/17-RA	VAD-EXCUS-001-APP-487 to 489/2016-17 dated 29.12.2016	Rebate/0569-0576/Weatherford-II/Div-I/16-17 dated 13.06.16	23,64,236/-
		Rebate/0577/Weatherford-II/Div-I/16-17 dated 10.06.16	3,45,286/-
		Rebate/0597-0598/Weatherford-II/Div-I/16-17 dated 20.06.16	16,27,750/-
195/214-218/17-RA	VAD-EXCUS-001-APP-490 to 493/2016-17 dated 29.12.2016	Rebate/1381-1397/Weatherford-II/Div-I/16-17 dated 20.10.16	40,97,110/-
		Rebate/1398-1401/Weatherford-II/Div-I/16-17 dated 20.10.16	12,04,028/-
		Rebate/1467-1470/Weatherford-I/Div-I/16-17 dated 27.10.16	34,05,524/-
		Rebate/1471-1474/Weatherford-I/Div-I/16-17 dated 27.10.16	54,75,377/-
195/268/WZ/19-RA	VAD-EXCUS-002-APP-80 to 83/ 2019-20 dated 28.05.2019	08/Weatherford/JAC/Div-V/2018-19 dated 22.03.19	3,74,63,552/-
195/269/WZ/19-RA		01-03/Weatherford/2018-19 dated 28.02.19	75,21,894/-
195/270/WZ/19-RA			2,88,10,220/-
195/271/WZ/19-RA			42,45,022/-
195/08/WZ/21-RA	VAD-EXCUS-002-APP-199 to 202/ 2019-20 dated 11.02.2020	JAC/01-04/Weatherford/2019-20 dated 11.02.20	2,88,10,220/-
195/09/WZ/21-RA			3,74,63,552/-
195/10/WZ/21-RA			75,21,894/-
195/11/WZ/21-RA			42,45,022/-

2. Brief facts of the case are that the Applicant had filed rebate claims under Rule 18 of the Central Excise Rules,2002. However, the same were disallowed as valuation of export goods was not in conformity with the provisions of Section 4 of the Central Excise Act, 1944.

3. Hence, the Applicant has filed the instant Revision Applications mainly on the grounds that:

a) A close scrutiny of the Correspondence and Communications, annexed to this Appeal, exchanged between the Divisional Central Excise Office and the Applicants, will clearly reveal that throughout the episode, the Excise Authorities, have blindly demanded CAS-4 Certificate, for each Export Consignment, for ascertainment of Assessable Value of export goods, for the purposes of payment of Central Excise Duty and claiming Rebate thereof, for determining Assessable Value as 110% of Cost of Production, where, Cost of Production, is to be ascertained in terms of CAS-4 System;

b) Consistently, the Applicants, have maintained that the Foreigner, to whom, *they have exported their finished excisable goods*, on payment of Central Excise Duty, with a Claim for Rebate, under Rule 18 of the Central Excise Rules, 2002, read with, Notification, 19/2004-C.E. (N.T.), dated 6.9.2004, does not consume the said excisable goods, in further production of other goods but he sells the said excisable goods, to his independent Buyers and against this argument, the Excise Authorities, have not raised any doubts or questions or queries and this means that the Excise Authorities, have accepted the factual position that the excisable goods, cleared by the Applicants, from their Factory and exported to the Foreigner, on payment of Central Excise Duty, with a Claim for Rebate, under the aforestated provisions, have not been consumed by the said Foreign Buyer, for production of other goods but have been sold by him, to his independent Buyers;

c) If, this be the case, question of requirement of submission of CAS-4 Certificate, for each Export Consignment, in question, would not arise, as this would be applicable only when the excisable goods, exported by the Applicants, to the Related Person, are consumed by the said Related Person, in production of other goods but when the said excisable goods, are not consumed by him and sold by him, to his independent Buyers, the provisions of Rule 8 of the Central Excise Valuation Rules, 2000, would not come into picture, at all and the case, is covered by the opening portion of Rule 9 of the Central Excise Valuation Rules, 2000, according to which, Selling Price of the said Foreigner, is to be taken as Assessable Value, in the hands of the Applicant;

d) It is to be reiterated that the Applicants, throughout their career of years and years, have exported finished excisable goods, to the same Foreigner but such queries, have never been raised by any Excise Authorities, for sanction of Rebate Claim, which queries are unwarranted and extraneous, in reality. It is again reiterated that several and several times, in their Communications, addressed to the Divisional Central Excise Authority, the Applicants, have maintained that excisable goods, exported from their Factory, to the said Related Person, on payment of Central Excise Duty, with a Claim for Rebate, in terms of the provisions of Rule 18 of the Central Excise Rules, 2002, read with, Notification, 19/2004-C.E. (N.T.), dated 6.9.2004, further read with, Section 11-B of the Central Excise Act, have never been consumed by the said Related Person, in Foreign Country, for further production of goods but *have been actually traded by him, to his independent Buyers and* in this connection, the Divisional Central Excise Authority, has failed to raise any query or objection or challenge and accordingly, it is presumed that the said Authority, has accepted that the export goods, *supplied by the Applicants, to the said Related Person, in* the Foreign Country, have always been further sold by him and have never been captively consumed and this being the position, demand of CAS-4 Certificates and non-submission of such CAS-4 Certificate, in case of each Export Consignment, by the Applicants, cannot result into rejection of their Rebate Claims, either in totality or an amount rejected on account of excess payment of duty, on such Value, which is above the Value of CAS-4 System. Such an action of the said Authority, is extraneous and superfluous and at the same time, without the authority of Law. The Applicants, would like to state that the Original Authority, while rejecting the Rebate Claims of huge amount of Indian Exporter, has not read the Law properly and unnecessarily created undue hardship upon the Applicants, by rejecting unusually high valued Rebate Claims of the Applicants, causing injury to their economy;

e) It is clarified that M/s. Weatherford U.S.A., is a Holding Company of the Indian Organisation, involved in this litigation and known by the name and style of M/s. WEATHERFORD DRILLING &

PRODUCTION SERVICES (INDIA) PVT. LTD., but it is to be further clarified that the export goods, supplied by the Applicants, to the said Holding Company, are never consumed by the said Holding Company, in further production of goods but are sold by the said Holding Company, in Foreign Country, to its independent Buyers;

f) This being the position, rejection of Rebate Claims of the Applicants, being not in accordance with and subject to the provisions of Section 4 of the Central Excise Act, read with, the Central Excise Valuation Rules, 2000, further read with, Rule 18 of the Central Excise Rules, 2002 and Notification 19/2004-C.E. (N.T.), dated 6.9.2004, read with, Section 11B of the Central Excise Act, the impugned Order-in-Appeal of the Respondent, is required to be set-aside accordingly, to the extent of the aforestated rejection;

g) The Applicants, would like to state that it is a serious matter of applying Central Excise Valuation Rules, 2000, under the facts and circumstances of their case, where, the Buyer is a Foreigner, alleged to be Related Person, to the Applicants, situated in Foreign Country. This is something erroneous and extraneous. Notwithstanding that though the Original Authority, has invoked the provisions of Valuation of export goods, pertaining to supply of excisable goods, by a Manufacturer, to his Related Person, situated in Foreign Country but nowhere, he has pinpointed, as to, how the Foreigner is related to the Applicants. Whether or not, the Applicants, are related to the Foreigner but the Original Authority, has not established by himself, that the Foreigner is related to the, on the basis of documentary evidences. He has simply proceeded only presumptions and assumptions of his own that the Foreigner, is related to the Applicants, apart from the fact that even if, Foreigner is related to the Applicants, this is not a case, which requires submission of CAS-4 Certificate, for each Export Consignment, for ascertainment of Assessable Value of export goods. Such conjectures and surmises, cannot reject legitimate Rebate Claims of the Indian Exporter and if, such thing continues, the Indian Economy, would suffer heavily. The Orders of the Authorities, below, suffer from serious infirmity, so far as it relates

to rejection of Rebate Claims of the Applicants and the said Orders are required to be set-aside, in toto, with all consequential relief, to the Applicants, including interest payable to them.

In the light of the above submissions, the applicant prayed to set aside the impugned orders-in-appeal and allow the application with consequential relief.

4. Personal hearing in the case was fixed for 01.03.2023. Shri Vinay Kansara, Advocate, attended the hearing and submitted an additional written submission. He further submitted that Department rejected their claim only the grounds that goods were exported to a related party, valuation was not done as per Rule 8 of Valuation Rules, 2000 and CAS 4 certificate was not produced. He submitted that Rule 8 is not applicable. He further submitted that the Department had not made the case that goods were used captively by related person. He also submitted that in many cases, goods billed to group company were actually shipped to independent buyer. He also submitted that Department rejected entire amount whereas they should have proposed rejection for difference in value, if any. He contended that when goods were exported no challenge to value was made. He requested to allow claims.

4.1 In additional written submission, the applicant has inter alia contended that:

a) It is settled legal position that when the goods have been removed to the related person and such related person does not use such goods captively for further manufacturing of other goods, the provisions of Rule 8 of the Valuation Rules, 2000 cannot be made applicable and thereby, it is not required for such supplier of the goods to determine the value considering 110% of cost of production. In this context, the applicant place reliance on the following judgements:
CCE vs. Mahindra Ugine Steel co. Ltd. - 2015 (318) ELT 592 (SC)
P. C. Pole Factory vs. [UOI - 2018 (360) ELT 452 (Bom.)

b) The applicant further submits that it is pertinent to note that this is not the case wherein the entire amount of duty was not payable at all. As a matter of fact, it is an undisputed fact that the goods were dutiable attracting Central Excise duty and it was required for the applicant to pay duty. It is thus submitted that the adjudicating authority as well as appellate authority has treated the entire duty as not payable and accordingly, the rebate claims were rejected. If the department was of the views that the applicant did not pay duty in terms of the provisions of Rule 8 of Valuation Rules, 2000, the rebate claims could have been rejected to that extent, however, the entire amount of rebate claims can never be rejected treating the amount of duty as not payable. In view thereof, it is submitted that all the contentions as raised by the department to reject the rebate claims are not only incorrect, improper but also not based on legal position.

c) Further, the entire case is revenue neutral, in as much as, when the payment of duty has been accepted, the rebate claim was required to be sanctioned. Further, this is not the case wherein rebate claims were claimed in relation to amount of duty which was not at all paid. Therefore, in this case, the revenue neutral aspect is also required to be considered. In view thereof, the rebate claims ought to have been sanctioned by the adjudicating authority

d) While carrying out export of the goods, the value of the goods and the amount of duty paid was not challenged and accepted without raising any objection. It is while sanctioning the rebate claims of C. Ex. duty already paid, the objection was taken however, before dealing with the rebate claims, such objection was never taken and thereby, no Show Cause Notice proposing to deny the valuation carried out was issued. In absence of any, such SCN, the rebate claims cannot be denied, In this context, the applicant place reliance on the following judgements:

- Dr. Reddy's Laboratories Ltd. vs. *UOI - 2014 (309) ELT 423 (Del.)*
- CCE vs. Eveready Industries India Ltd. 2021 (376) E.L.T. 685 (T)

- Commr. of CGST & C. Ex Vs Morgan Stanley Investment Mgt. Pvt. Ltd. - 2018 (363) E.L.T. 1158 (T)
- CCE vs. Minda Accoustics Ltd, 2017 (358) E.L.T. 261 (T)

e) They were not selling exclusively to related person but was also selling the goods to independent buyers and therefore, in terms of the settled legal position, Rule 8 of valuation Rules, 2000 cannot be made applicable.

The applicant also submitted few invoices pertaining to impugned exports showing that though they had billed to their related person, the consignment was shipped to a different person.

5. Government has carefully gone through the relevant case records available in the case file, written and oral submissions and perused the impugned Order-in-Original and Order-in-Appeal.

6. Government observes that the main issue involved in the instant case is whether rebate of duty paid on goods exported to a related person can be denied for non-compliance of Section 4(1)(b) of the Central Excise Act, 1944 and Rule 11 of Central excise Valuation (Determination of price of excisable goods) Rules, 2000 read with Rule 8 of said Rules?

7. Government observes that in the instant case the applicant is a manufacturer of excisable goods 'Oilwell equipment' falling under Chapter heading 8431 of CETA,1985. They had filed various rebate claims during the period 2015-16 to 2017-18 for export of excisable goods manufactured by them to their related persons.

7.1 Government observes that in Revision Application No. 195/211-213/17-RA, the rebate claims were sanctioned to the applicant. However, the department filed an appeal on the grounds that:

- that excisable goods were Stock transfers to overseas buyers who were related to the applicant in terms of provisions of Section 4 (3) of Central Excise Act, 1944

- the valuation of export goods stock transferred to their related entities overseas should have been carried out under Central Excise Valuation Rule 11 read with Rule 8 on the basis of cost of production plus 10% profit margin on CAS-4
- the transaction value arrived by the applicant is liable for rejection on the ground that quantum of duty is to be determined necessarily for allowing rebate and recover the excess rebate allowed and any amount if paid over and above the transaction value is required to refunded back in the manner it was paid treating the same as deposit with the Central Government.

The appeal was allowed by the appellate authority, vide OIA No. VAD-EXCUS-001-APP-487 to 489/2016-17 dated 29.12.2016 hence the applicant has filed the impugned RA.

7.2 Government observes that in Revision Application No. 195/214-218/17-RA, the rebate claims were rejected by the original authority for non-submission of required information i.e. value as per cost accounting standard 4 (CAS-4) in terms of provision of Section 4(1)(b) of the Central excise Act, 1944 and Rule 11 of Central Excise Valuation (Determination of price of excisable goods) Rules, 2000 read with Rule 8 of said Rules. The appeal filed by the applicant was rejected by the appellate authority, vide OIA No. VAD-EXCUS-001-APP-490 to 493/2016-17 dated 29.12.2016 hence they have filed the impugned RA.

7.3 Government observes that in the Revision Application No. 195/268-271/19-RA, the matter can be explained as follows: Consequent to OIA mentioned at para 7.1, wherein appeal filed by the department was allowed by the appellate authority, the department issued demand notice to the applicant to recover amount pertaining to erroneously sanctioned rebate claims under section 11A(1) of the Central Excise Act,1944 alongwith interest at applicable rate under section 11AA ibid. The demand notice was confirmed by the adjudicating authority (vide OIOs detailed at aforementioned para 1), hence the applicant filed an appeal. The appellate

authority vide OIA No. VAD-EXCUS-002-APP-80 to 83/2019-20 dated 28.05.2019 remanded the matter back to adjudicating authority on the grounds that the status of OIA mentioned at para 7.1, (No. VAD-EXCUS-001-APP-487 to 489/2016-17 dated 29.12.2016), was not known, i.e. whether the applicant had accepted it or otherwise and the Department had not informed whether appeal had been filed against other OIOs wherein rebate was sanctioned to the applicant and subsequently demand notices had been issued for recovery of erroneously sanctioned rebate. The applicant filed the impugned RAs against this OIA, contending that they had in the statement of facts, at point no.13, of their appeal conveyed to the appellate authority regarding filing of Revision Applications against OIA No. VAD-EXCUS-001-APP-487 to 489/2016-17 dated 29.12.2016 and therefore the matter has been unnecessarily dragged to lower authorities.

7.4 Government observes that the matter in Revision Application No. 195/08-11/WZ/2021-RA is in continuation to OIA involved in RA mentioned at para 7.3 above. During denovo adjudication the lower authority confirmed the demands vide OIOs detailed at aforementioned para 1. Aggrieved, the applicant filed an appeal, which was rejected by the appellate authority vide OIA No. VAD-EXCUS-002-APP-199 to 202/2019-20 dated 11.02.2020. Hence, the applicant has filed the impugned RAs inter alia contending that the rebate sanctioning authority had not sanctioned rebate claims in terms of provisions of section 11B of the CEA,1944 but recredit of amount involved was allowed. Hence, Section 11A ibid, which lays down provisions for recovery of erroneously granted rebate claims, is not applicable in the instant matter.

8. Government observes, from the grounds of RA, that the applicant has contended that their foreign buyer does not consume the said excisable goods in further production of other goods but sells the said excisable goods to their independent buyers and that against this argument, the department had not raised any doubts or questions or queries. Therefore, it is not required to determine the value considering 110% of cost of production. The applicant has also contended that in many cases, goods billed to group

company were actually shipped to independent buyers. In support the applicant has submitted a list giving details of exports to their related persons during the period 2015-16 to 2017-18 along with few corresponding invoices. Government observes that in some exports, though the invoice was raised in the name of group company of the applicant, the goods were consigned to a different entity situated in different place.

9. As regards the legal provisions, Government notes that the rebate claims in question have been filed under Rule 18 of the Central Excise Rules, 2002 read with notification no.19/2004-CE (NT), dated 06.09.2004. Rule 18 of the Central Excise Rules, 2002 lays down that where any goods are exported, the Central Government may, by notification, grant rebate of duty paid on such excisable goods, subject to such conditions or limitations, if any, as may be prescribed by the said notification. Notification no.19/2004-CE (NT), dated 06.09.2004, issued in exercise of the powers conferred under Rule 18 of the Central Excise Rules, 2002, specifies the conditions, limitations and procedures for claiming rebate of duty paid on the goods exported. Government has examined the said notification and finds that the only condition pertaining to the value of the goods being exported is mentioned at para 2(e) of the notification, which states as follows:-

> *"that the market price of the excisable goods at the time of exportation is not less than the amount of rebate of duty claimed;"*

Government finds that there is no allegation against the applicant that they have violated the above condition imposed by the notification or any of the provisions of either Rule 18 of Central Excise Rules, 2002 or notification no.19/2004-CE(NT), dated 06.09.2004, have been violated.

10. Government finds that the Department had neither challenged the valuation of the goods when they were cleared for export nor was any objection raised at the port of export. At no point during the course of the entire proceedings has the Order-in-Original or the Order-in-Appeal recorded that the Department had challenged the valuation of the goods

being exported and that the applicant had been issued any Notice by the Department seeking to reject the values indicated by them. Government notes that the dispute of the valuation of goods arose after the applicant filed the claims for rebate. Government finds that Central Board of Excise & Customs had vide Circular no. 510/06/2000-CX dated 03.02.2000 clarified the issue in question. Relevant portion of the same is reproduced below:-

" It is directed to say that doubts have arisen relating to the determination of the amount of rebate of excise duty in cases where prices of export goods are doubted in foreign currency and advalero excise duty is paid after converting the value in equivalent Indian rupee. Another doubt is that once duty is paid, should rebate be reduced and if the rebate is reduced, can the manufacturer be allowed to take re-credit of the duties paid through debits in RG-23A Part-II or RG-23C Part-II on the relevant export goods? Yet another doubt is that in case any short payment is detected but the assessee pays the duty prior to sanction of rebate, whether the rebate amount should be reduced?

2. The Board has examined the matter. It is clarified that in aforementioned case, the duty on export goods should be paid by applying market rate as it prevails at the time the duty is paid on such goods. Once value (in accordance with section 4 of the Central Excise Act, 1944) is determined and duty is paid, rebate has to be allowed equivalent to the duty paid. Board has already clarified in Circular No. 203/37/96-CX dated 26.4.96 that AR-4 value is to be determined under section 4 of the Central Excise Act, 1944 and this value is relevant for the purposes of rule 12 & rule 13. Thus, the duty element shown on AR-4 has to be rebated, if the jurisdictional Range officer certifies it to be correct. There is no question of re-quantifying the amount of rebate by the rebate sanctioning authority by applying some other rate of exchange prevalent subsequent to the date on which the duty was paid. ***It is also clarified that the rebate sanctioning authority should not examine the correctness of assessment but should examine only the admissibility of rebate of the duty paid on the export goods covered by a claim.***

3. If the rebate sanctioning authority has reasons to believe that duty has been paid in excess than what should have been paid, he shall inform, after granting the rebate, the jurisdictional Assistant/Deputy Commissioner. The latter shall

scrutinize the correctness of assessment and take necessary action, wherever necessary. In fact, the triplicate copy of AR-4 is meant for this purpose, which are to be scrutinized by the Range officers and then sent to rebate sanctioning authority with suitable endorsement. Since there is no need for reducing rebate, the question of taking of reaccredit in RG-23A Part-II or RG-23C Part-II do not arise.

[emphasis supplied]

A plain reading of the above Circular clearly indicates that :-

- the duty on export goods should be paid at the market rate as it prevails at the time the duty is paid on such goods, in accordance with Section 4 of the Central Excise Act, 1944 and rebate equivalent to the duty paid has to be allowed;
- the duty element shown on the AR-1 has to be rebated, if the jurisdictional Range officer certifies it to be correct;
- the rebate sanctioning authority should not examine the correctness of assessment but should examine only the admissibility of rebate of the duty paid on the export goods covered by a claim;
- If the rebate sanctioning authority has reasons to believe that duty has been paid in excess than what should have been paid, he shall inform, after granting the rebate, the jurisdictional Assistant/Deputy Commissioner. The latter shall scrutinize the correctness of assessment and take necessary action, wherever necessary;
- Since there is no need for reducing rebate, the question of allowing re-credit in RG-23A Part-II or RG-23C Part-II did not arise.

11. Government notes that in the present case, no objection was raised by the Department with respect to the value of the goods when the same were cleared for export. There is nothing on record to indicate that the Department had challenged the value of the goods exported, prior to the applicant claiming rebate of the duty paid on the same. In the present case, as clarified by the above circular, the role of the jurisdictional Range Superintendent was to certify the duty element paid on the export consignment. However, the Range Superintendent and the rebate sanctioning authority have sought to re-assess the value of the goods exported, an action which has been specifically prohibited at this stage by the above said Circular. The said Circular further clarifies that in the event

it is felt that duty paid is in excess to what was required to be paid, the rebate claimed will first be paid and thereafter the jurisdictional authorities were required to be informed for initiating appropriate action.

12. Government observes that the original Adjudicating Authority has *'sanctioned'* few claims but has only allowed re-credit of the amount of rebate claimed in the applicant's Cenvat Account, which as per the above Circular, is a situation which should never have arisen. Government notes that the above decision of the original Adjudicating Authority to not disburse the amount and only allow the same as re-credit in the Cenvat credit account on the grounds of improper valuation of the goods exported is not *proper and legal and in clear violation of the guidelines laid down by the* Board in this regard. Government further notes that merely because the applicant had not submitted CAS-4 certificate, entire amount of rebate *'sanctioned'* had been demanded and confirmed along with interest. Government agrees with contention of the applicant that when rebate had not been sanctioned but only recredit of amount paid towards duty had been allowed, provisions of Section 11A of CEA,1944, which is for recovery of duties erroneously refunded, are not invokable.

13. In view of the above, the Government notes that the original rebate sanctioning authority has incorrectly resorted to assessing the value of goods exported, while deciding the rebate claims filed by the applicant. The Department, not having challenged the value of the goods exported prior to the rebate claims being filed, had no grounds to dispute the same while deciding the rebate claims.

14. Government finds that no case has been made out that the provisions of Rule 18 of the Central Excise Rules, 2002 or the notification no.19/2004-CE (NT), dated 06.09.2004 have been violated by the applicant. As stated above, the grounds on which the rebate claims have been not disbursed are not proper or legal. Therefore, the subject impugned Orders-in-Appeal passed by the Commissioner of GST & Central Excise (Appeals), Vadodara,

which upheld the Orders of the original authority deserve to be annulled and Government accordingly holds so.

15. Further, Government finds support in the decision of the Hon'ble High Court of Delhi in the case of Dr. Reddy's Laboratories Limited vs UOI [2014 (309) ELT 423 (Del)], (which is also relied upon by the applicant) wherein in an identical case, it was held as under:-

> *"Under Rule 18 - which contemplates return of the excise duty paid in cases of exported goods, - the market price must necessarily refer to the market where the goods are sold, - in this case, the United States market. The goods in question are neither meant for, nor did they ever enter, the Indian market. If this were not to be the position, the valuation of goods meant for export (in cases of export to countries with a stronger currency valuation; or simply, "developed" countries) would always be incongruous even bizarre. In such cases, the actual value of goods sold abroad would likely exceed the value domestically. Following the Revenue's logic, unless the exporter decides to export the goods at the lower domestic price, he or she may never recover the entire excise duty paid on the higher international price. This extinguishes the purpose of Rule 18 of the 2002 Rules, and the policy of ensuring competitive exports....*
>
> *..... The stated purpose of Rule 18 is revenue neutrality, yet, time and resource has been expended on this exercise to neither party's benefit. The Supreme Court has also - at various points - recognized that minimum, if any, interference should occur in such cases, [see, Commissioner of Income Tax v. GlaxoSithkline Asia (Pvt.) Ltd., [2010] 195 TAXMAN 35 (SC), paragraphs 3-4, Commissioner of Income Tax v. Bilahari Investment (Pvt.) Ltd., (2008) 4 SCC 232]."*

A reading of the above indicates that the Hon'ble High Court, in a similar case, has clearly decided the issue involved, in favour of the applicant. In view of the above discussions, Government holds that rebate of duty paid, which has been claimed by the applicant, is admissible to them along with consequential relief arising thereof.

16. *In view of the findings recorded above, Government sets aside the impugned Orders-in-Appeal passed by Commissioner (Appeals-I), Central Excise, Customs & Service Tax, Vadodara / Commissioner, GST & Central Excise (Appeals), Vadodara and allows the instant Revision Applications.*

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

ORDER No. 302-317 */2023-CX (WZ)/ASRA/Mumbai dated* 30.6.23

To,
M/s. Weatherford Drilling & Production Services (I) P. Ltd., (Unit-II),
Block No. 273-274, GIDC Industrial Area,
Village - Manjusar, Taluka – Savli,
Vadodara – 391 775.

Copy to:

1. Commissioner of CGST & Central Excise,
   Vadodara-II Commissionerate,
   GST Bhavan, Subhanpura,
   Vadodara – 390 023.
2. Sr. P.S. to AS (RA), Mumbai
3. Guard file
4. Notice Board.