F.No. 195/340/14-RA, 195/97/14- RA,
195/18/15-RA, 195/48/15-RA,
195/155/15-RA, 373/238/15-RA

REGISTERED SPEED POST

सत्यमेव जयते

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. 195/340/14-RA, 195/97/14- RA,
195/18/15-RA, 195/48/15-RA,
195/155/15-RA, 373/238/15-RA/ 338

Date of Issue:- 12.10.2018

ORDER NO. 334-339/2018-CX(SZ)/ASRA/MUMBAI DATED 28.09.2018 OF THE GOVERNMENT OF INDIA PASSED BY SHRI ASHOK KUMAR MEHTA, PRINCIPAL COMMISSIONER & EX-OFFICIO ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA, UNDER SETION 35EE OF THE CENTRAL EXCISE ACT, 1944.

Sl.No.	Revision Application No.	Applicant	Respondent
1	195/340/14-RA	M/s Bio-gen Extracts Pvt. Ltd.,Bangalore	Commissioner, Central Excise, Bengaluru-II.
2	195/97/14-RA	M/s Bio-gen Extracts Pvt. Ltd. Bangalore	Commissioner, Central Excise, Bengaluru-II
3	195/18/15-RA	M/s Bio-gen Extracts Pvt. Ltd. Bangalore	Commissioner, Central Excise, Bengaluru-II
4	195/48/15-RA	M/s Bio-gen Extracts Pvt. Ltd. Bangalore	Commissioner, Central Excise, Bengaluru-II
5	195/155/15-RA	M/s Bio-gen Extracts Pvt. Ltd. Bangalore	Commissioner, Central Excise, Bengaluru-II
6	373/238/15-RA	M/s Bio-gen Extracts Pvt. Ltd. Bangalore	Commissioner, Central Excise, Bengaluru-II

Subject: Revision applications filed under section 35EE of the Central Excise Act, 1944, against the Order in Appeal No. 508-510/2014-CE dated 28.08.2014, 71/2014-CE dtd. 13.02.2014, 716/2014-CE dtd. 20.11.2014, 80-81/2015-CE dtd.20.02.2015, 189/2015-CE dtd. 26.03.2015 and 190-192/2015 dtd.26.03.2015 passed by the Commissioner of Central Excise (Appeals-I), Bangalore.

ORDER

These Revision applications are filed by M/s Bio-gen Extracts Pvt. Ltd. Bangalore, (hereinafter referred to as the 'applicant') against the Orders-In-Appeal as detailed in Table below passed by Commissioner of Central Excise (Appeals) Mumbai-III.

TABLE

Sl. No	RA File No.	Order-In-Appeal No./ Date	Order-In-Original No./ Date/ Amount of Rebate Rejected in Rs.	Remark
1	195/340/14-RA	Order in Appeal No. 508-510/2014-CE dated 28.08.2014	(1) 384/2013(R) dtd. 21.10.2013 Rs. 8,05,009/- (2) 386/2013(R) dtd. 21.10.2013 Rs. 4,23,978/- (3) 413/2013(R) dtd 26.11.2013 Rs. 4,19,274/-	Rebate claim rejected on account of difference in Tariff Heading (CETH) of the exported goods appearing on Excise Invoices/ ARE-1s and on Shipping Bill
2	195/97/14-RA	71/2014-CE dtd. 13.02.2014	335/2013(R) dated 13.08.2013 Rs.2,76,594/-	Appeal filed against Order in Original is rejected by the Commissioner (Appeals) as time barred.
3	195/18/15-RA	716/2014-CE dtd. 20.11.2014	435/2013(R) dated 12.12.2013 Rs.5,05,505/-	Rebate claim rejected on account of difference in Tariff Heading (CETH) of the exported goods appearing on Excise Invoices/ ARE-1s and on Shipping Bill
4	195/48/15-RA	80-81/2015-CE dtd.20.02.2015	(1) 16/2014 dated 20.01.2014 Rs.5,69,502/- (2) 18/2014 dated 20.01.2014 Rs.4,31,181/-	Rebate claim rejected on account of difference in Tariff Heading (CETH) of the exported goods appearing on Excise Invoices/ ARE-1s and on Shipping Bill
5	195/155/15-RA	189/2015-CE dtd. 26.03.2015	17/2014 dated 20.01.2014 Rs.3,35,496/-	Rebate claim rejected on account of difference in Tariff Heading (CETH) of the exported goods appearing on Excise Invoices/ ARE-1s and on Shipping Bill
6	373/238/15-RA	190-192/2015 dtd.26.03.2015	2,3,& 4 /2013-14 (Drawback) dated 14/02/2014 Rs. 1,24,960/- Rs. 1,22,457/- and Rs. 3,06,144/-	Brand Rate Fixation of duty drawback rejected on account of difference in Tariff Heading (CETH) of the exported goods appearing on Excise Invoices/ ARE-1s and on Shipping Bill

2. The Brief facts of the case are that the applicant M/s Bio-gen Extracts P Ltd. Bangalore, are engaged in the manufacture of excisable goods falling under chapter heading 29 of Central Excise Tariff Act, 1985. They had filed rebate claims in respect of Central Excise duty paid on the goods exported on payment of duty in terms of provision of rule 18 of central excise rule 2002 read with Notification No. 19/2004-C.E. (N.T.), dated 6-9-2004. In one case they had also filed brand rate applications seeking fixation of brand rate of duty drawback under Notification No. 49/2010 Customs (NT) dated 17.06.2010

3. In the 5 cases listed above (except one at Sl. No. 2) the rebate claims/application for fixation of brand rate filed by applicant were rejected by the original authority on the ground that there was difference in Tariff Heading (CETH) of the exported goods appearing on Excise Invoices/ ARE-1s and on Shipping Bill and hence it could not be established that the same goods which were manufactured and cleared by the applicants were ultimately exported.

4. Being aggrieved by the said Orders-in-Original applicant filed appeals before Commissioner (Appeals) who after consideration of all the submissions, rejected their appeals and upheld impugned Orders-in-Original.

5. Being aggrieved with these Orders-in-Appeal, applicant has filed these revision applications (Sl. No. 1,3,4,5,6 of the Table) before Central Government under Section 35EE of Central Excise Act, 1944 on the grounds mentioned in each application.

6. In respect of Revision Application at Sl. No. 2 (195/97/14-RA) at Table above, the Appeal against the Order in Original No 335/2013(R) dated 13.08.2013 filed by the applicant was rejected by the Commissioner (Appeals) on the grounds of limitation. Being aggrieved with the said Order-in-Appeal, applicant has filed revision application No. 195/97/14-RA before Central Government under Section 35EE of Central Excise Act, 1944 on the grounds mentioned in the said application

7. A Personal Hearing was held in this case on 22.03.2018 and Shri BKV Subrahmanyam, advocate and Shri jai Shankar, Director appeared on behalf of the applicant for hearing. No one appeared on behalf of the Revenue. The applicant reiterated the submission filed through Revision applications and written brief alongwith the case laws filed today. It was pleaded that in view of the submissions Revision Application be allowed and Order in Appeal be set aside as substantive benefits cannot be denied because of minor technical infractions. The applicant also filed submissions in respect of all the six Revisions Applications on the date of personal hearing wherein they mainly contended as under :-

8. <u>Revision Application No. 195/340/2014-RA - Submissions</u> :

8.1 It is admitted by the department and noted in the Order-in-Original No.21.10.2013 that on perusal of the documents filed by the assessee they have manufactured and exported their finished products under two different shipping bills. However the lower authority totally rejected the claim on the ground that there is wrong chapter heading in the shipping bill and arrived a wrong finding that the goods mentioned in the documents are not the same.

8.2 The Export was not disputed by the department and it is the fundamental condition for granting rebate of duty paid on exported goods is that duty paid goods are exported principle and the substantial benefit of rebate cannot be denied.

8.3 They have followed the due procedure by complying para 3(a)(i) of Notification No. 19/2004-C.E. (N.T.), dated 6-9-2004 self sealing of goods issued by the department. It is pertinent to mention here that on the Form ARE-1 the Commissioner of the customs, Chennai also certified that the consignment was shipped under his supervision vide Shipping Bill No. 5397489 dated 13.05.2013 and

4836264 dated 06.04.2013. Hence the dept. has not raised any objection about the classification heading at the time of export.

8.4 The Appellate authority and lower authority cannot deny the benefit of rebate merely because of the wrong Chapter Heading. This is only a procedural error.

8.5 The Ld. Commissioner in Appeals has erred to follow the settle principles of law in as much as the substantial benefit cannot be denied to the applicant for technical or procedural violations.

8.6 In catena of judgments GOI has granted the reliefs on the ground that substantial benefit of rebate cannot be denied for minor procedural lapses when the export of duty paid goods is not in dispute by the department, the rebate claim cannot be denied.

Judgment :- Re. Superfil Products ltd 2013 (295) E.L.T.152 (G01).

8.7 They are not deriving any extra benefit by claiming under different HS code because of the clerical error committed by the CHA.

9. Revision Application No. 195/97/2014-RA- Submissions :

9.1 The Appellate authority did not consider the sufficient cause explained by them in the petition for condonation of delay. It is pertinent to mention here that the delay in filing the appeal 23 days caused due to staff was busy in statutory audit and they could not bring to the notice of the director in time for filing the appeal. The Ld. Appellate authority dismissed the appeal at the threshold stage despite having powers to condone the delay.

9.2 The Ld. Appellate authority did not consider and rejected the submissions made before the lower authority that the mistake in connection with the availment of duty drawback in respect of the goods exported vide shipping bill 3826034 dated 05.02.2013 because of the mistake committed by the Customs House Agent who had wrongly entered the Tariff Heading as 13019019 instead of CETH 29362100.

9.3. The department also admitted in the Order-in-Original that the documents have been verified ARE-1/ invoices and the export was not disputed. The Ld. Appellate authority did not consider the fact that the description of goods mentioned in the ARE1, Commercial Invoice, Packaging list, Excise Invoice, Shipping Bill consists the same description of goods/item i.e. Beta Carotene 20% CWD powder. They have followed the due procedure by complying para 3(a)(i) of Notification No. 19/2004-C.E. (N.T.), dated 6-9-2004 self sealing of goods issued by the department. It is pertinent to mention here that on the Form ARE-1 the commissioner of the customs, Chennai also certified that the consignment was shipped under his supervision vide Shipping Bill No. 3826034dated 05.02.2013.

9.4 They are not getting any extra benefit by claiming under different HS code because of the clerical error committed by the CHA.

10. Revision Application No. 195/18/2015-RA - Submissions :

10.1 It is an admitted fact that the department neither disputed nor alleged about the export of goods. The appellate authority further committed gross error and injustice in not taking note of the finding of the original authority in pursuance to the claim of the applicant herein that their finished goods having been cleared on

payment of the duty and having been examined at the port of export and therefore the rebate is not deniable to the effect "that the show cause notice does not raise any question at all on these aspects. It is submitted that the lower authority totally rejected the claim on the ground that there is wrong classification of tariff heading in the shipping bill and arrived a wrong finding that the goods exported "Beta Carotene 30% oil were not the same goods. However the export of the assessee was not disputed.

10.2 The Ld. Appellate authority did not consider the fact that the description of goods mentioned in the ARE1, Commercial Invoice No. ME201314/09 dtd. 22.05.2013, Packaging list Invoice no. ME201314/09 dated 22.05.2013, Excise Invoice No. EX201314/009 dated 25.05.2013, Shipping Bill No. 5565404 dated 23.05.2013consists the same description of goods/item i.e. Beta Carotene 30% oil.

10.3 It is pertinent to mention here that on the Form ARE-1 the commissioner of the customs, Chennai also certified that the consignment was shipped under his supervision vide Shipping Bill No. 5565404 dated 23.05.2013.

10.4 The Ld. Appellate authority and lower authority cannot deny the benefit of rebate merely the custom tariff heading classification was wrong. The Ld. Commissioner in Appeals has erred to follow the settle principles of law in as much as the substantial benefit cannot be denied to the applicant for technical or procedural violations.

10.5 It is submitted that the assessee is not getting any extra benefit by claiming under different HS code because of the clerical error committed by the CHA.

10.6 In catena of judgments GOI has granted the reliefs on the ground that substantial benefit of rebate cannot be denied for minor procedural lapses when the export of duty paid goods is not in dispute by the department, the rebate claim cannot be denied.

Judgment :- Re. Superfil Products ltd 2013 (295) E.L.T.152 (G01).

10.7 They are not deriving any extra benefit by claiming under different HS code because of the clerical error committed by the CHA.

11. Revision Application No. 195/48/2015-RA- Submissions :

11.1 The Ld. Assistant Commissioner erroneously noted in the Order-in-Original that the assessee had submitted a letter dated 14.01.2014 stating that they do not need any show cause notice or any personal hearing in the matter and the matter may be decided on merits. However also the Ld. Authority has not followed the prescribed procedure laid down in the Central Excise Act, 1944 by issuing the show cause notice.

11.2 It is submitted that the lower authority totally rejected the claim on the ground that there is wrong classification of tariff heading in the shipping bill and arrived a wrong finding that the goods as stated above clear from the factory have not been exported.

11.3 The Ld. Appellate authority did not consider the facts and not verified the description of goods mentioned in the ARE1, Commercial Invoice Nos., Packaging list Invoice nos., Excise Invoice, Shipping Bill etc. It is pertinent to note here that on bare

perusal of all the documents, it consists the same description of goods/items, i.e. Beta Carotene 30% oil. Beta Carotene 30% CWD powder, Soy Isoflavones 40% and Ritrodine Hydrocloride. Hence the findings of the Ld. Authority are not tenable.

11.4 It is pertinent to mention here that on the Form ARE-1 the commissioner of the customs, Chennai also certified that the consignment was shipped under his supervision vide Shipping Bill No.5887206/11.06.2013; 5858247/10.06.2013; 5763774/ 03.06.2013 and 6077696/ 22.06.2013. Hence the dept. has not raised any objection about the classification heading at the time of export.

11.5 The Ld. Appellate authority and lower authority cannot deny the benefit of rebate merely the custom tariff heading classification was wrong. The Ld. Commissioner in Appeals has erred to follow the settle principles of law in as much as the substantial benefit cannot be denied to the applicant for technical or procedural violations. They are not getting any extra benefit by claiming under different HS code because of the clerical error committed by the CHA.

11.6 In catena of judgments GOI has granted the reliefs on the ground that substantial benefit of rebate cannot be denied for minor procedural lapses when the export of duty paid goods is not in dispute by the department, the rebate claim cannot be denied.

Judgment :- Re. Superfil Products ltd 2013 (295) E.L.T.152 (G01).

11.7 They are not deriving any extra benefit by claiming under different HS code because of the clerical error committed by the CHA.

12. Revision Application No. 195/155/2015-RA- Submissions :

12.1 The Ld. Assistant Commissioner erroneously noted in the Order-in-Original that they had submitted a letter dated 14.01.2014 stating that they do not need any show cause notice or any personal hearing in the matter and the matter may be decided on merits. However also the Ld. Authority has not followed the prescribed procedure laid down in the Central Excise Act, 1944 by issuing the show cause notice.

12.2. It is submitted that the fundamental principle for granting the rebate is exporting the finished goods on payment of duty, then the rebate is automatic.

12.3. It is submitted that the lower authority totally rejected the claim on the ground that there is wrong classification of tariff heading in the shipping bill and arrived a wrong finding that the goods as stated above clear from the factory have not been exported.

12.4 The Ld. Appellate authority did not consider the facts and not verified the description of goods mentioned in the ARE1, Commercial Invoice Nos., Packaging list Invoice nos., Excise Invoice, Shipping Bill etc. It is pertinent to note here that on bare perusal of all the documents, it consists the same description of goods/items, i.e. Lycopene 10% CWD powder, Ritrodine Hydrochloride and Co-Enzymes Q10 USP. Hence the findings of the Ld. Authority are not tenable.

12.5 It is pertinent to mention here that on the Form ARE-1 the commissioner of the customs, Chennai also certified that the

consignment was shipped under his supervision vide Shipping Bill No.6577592 dated 23.07.2013, 6688590 dated 29.07.2013 and 6711398 dated 30.07.2013. Hence the dept. has not raised any objection about the classification heading at the time of export.

12.6 The Ld. Appellate authority and lower authority cannot deny the benefit of rebate merely the custom tariff heading classification was wrong. The Ld. Commissioner in Appeals has erred to follow the settle principles of law in as much as the substantial benefit cannot be denied to the applicant for technical or procedural violations.

12.7 They are not getting any extra benefit by claiming under different HS code because of the clerical error committed by the CHA.

12.8 In catena of judgments GOI has granted the reliefs on the ground that substantial benefit of rebate cannot be denied for minor procedural lapses when the export of duty paid goods is not in dispute by the department, the rebate claim cannot be denied.

Judgment: - Re. Superfil Products ltd 2013 (295) E.L.T.152 (G01).

13. Revision Application No. 373/238/DBK/2015-RA- Submissions :

13.1 They have followed the due procedure by complying the rules under Customs Service & Duty Drawback rules.

13.2 The above brand rate applications were rejected by the adjudicating authority on the ground that the chapter heading mentioned in the shipping bill varies from the chapter heading of the product which is exported

13.3 The Ld. Appellate authority and lower authority cannot deny the benefit of claim under fixation of brand rate merely the custom tariff heading classification was wrong. The Ld. Commissioner in Appeals has erred to follow the settle principles of law in as much as the substantial benefit cannot be denied to the applicant for technical or procedural violations.

13.4 It is submitted that they are not getting any extra benefit by claiming under different HS code because of the clerical error committed by the CHA.

13.5 That this Hon'ble Authority has decided in catena of judgments granted the reliefs on the ground that substantial benefit of rebate cannot be denied for minor procedural lapses when the export of duty paid goods is not in dispute by the department, the rebate claim cannot be denied.

14. Government has carefully gone through the relevant case records available in case files, oral & written submissions and perused the impugned Orders-in-Original and Orders-in-Appeal.

15. Government notes that in all the above cases (except Revision Application No. 195/97/14-RA at Sl. No.2 of Table at para 1 above) the adjudicating authority rejected the Rebate Claims filed by the application for fixation of brand rate filed by applicant were rejected by the original authority on the ground that there was difference in Tariff Heading (CETSH) of the exported goods appearing on Excise Invoices / ARE-1s and on Shipping Bill and hence it could not be established that the same goods which were manufactured and cleared by the applicants were ultimately exported.

Commissioner (appeals) while upholding these Orders in Original, observed that from the copies of ARE-1s and Commercial invoices produced before him, only nomenclature of the goods is mentioned and not the chapter heading. He further observed in the subsequent orders that the applicant had not exercised due diligence and had not taken steps to see that the mistakes was not repeated and repeated failure to correct the mistake raises a question mark about the authenticity of their submission that it was only a mistake and hence it cannot be said that the rebate was authentically claimed beyond all reasonable doubts.

16. Government observes that in these cases the rebate claims / fixation of brand rate of Drawback filed by the applicant were rejected by the original authority on the ground of mismatching of CETH mentioned on Central Excise invoice with the CETH shown on Shipping bill. There is no other ground registered by adjudicating authority while rejecting rebate claim. Moreover, neither the original authority in all the orders rejecting rebate claims / drawback claims nor the Commissioner (Appeals) while upholding these Orders in Original have been able to show, how the wrong description appearing on the shipping bills has assisted the applicant in deriving some other export benefits simultaneously.

17. Government observes that the applicant has contended that the Appellate authority did not consider the facts and nor verified the description of goods mentioned in the ARE1, Commercial Invoice Nos., Packaging list Invoice nos., Excise Invoice, Shipping Bill etc. as on bare perusal of all these documents, it reveals the same description of goods/items, in all the above cases.

18. From the copies of export documents produced by the applicant along with its submissions on the date of personal hearing, Government observes that in all these cases description of the goods appearing on the invoice /ARE-1 tallies with the one shown on the respective shipping bills. Moreover, in all the shipping bills there is a cross reference of respective ARE-1s and vice-versa. Further, description, weight and quantities exactly tally with regard to description mentioned in ARE-1 and other export documents including Shipping Bill and export invoices. Further, number of packages, gross weight, net weight, total value of the goods shown on invoices/ARE-1s tally with the ones shown on the shipping bills which proves that the goods in question have been correctly and actually exported out of India. Government further observes that realization of foreign exchange have taken place. Moreover the Customs have certified on the ARE-1 that goods have been exported vide relevant Shipping Bill. There is no reason for not accepting said Customs certification.

19. In this regard Government further observes that rebate/drawback etc. are export-oriented schemes. A merely technical interpretation of procedures etc. is to be best avoided if the substantive fact of export having been made is not in doubt, a liberal interpretation is to be given in case of any technical lapse. In *Suksha International* v. *UOI* - 1989 (39) E.L.T. 503 (S.C.), the Hon'ble Supreme Court has observed that, an interpretation unduly restricting the scope of beneficial provision is to be avoided so that it may not take away with one hand what the policy gives with the other. In the *Union of India* v. *Narasimhalu* - 1983 (13) E.L.T. 1534 (S.C.), the Apex Court also observed that the administrative authorities should instead of relying on technicalities act in a manner consistent with the broader concept of justice. Similar observations

was made by the Apex Court in the *Formica India* v. *Collector of Central Excise* - 1995 (77) E.L.T. 511 (S.C.) in observing that once a view is taken that the party would have been entitled to the benefit of the notification had they met with the requirement of the concerned rule, the proper course was to permit them to do so rather than denying to them the benefit on the technical grounds that the time when they could have done so, had elapsed. While drawing a distinction between a procedural condition of a technical nature and a substantive condition in interpreting statute similar view was also propounded by the Apex Court in *Mangalore Chemicals and Fertilizers Ltd.* v. *Dy. Commissioner* - 1991 (55) E.L.T. 437 (S.C.). In many cases of rebate specifically, GOI has viewed that the procedural infraction of Notifications, circulars, etc., are to be condoned if exports have really taken place, and the law is settled now that substantive benefit cannot be denied for procedural lapses. The core aspect or fundamental requirement for rebate is its manufacture and subsequent export. As long as this requirement is met other procedural deviations can be condoned.

20. From the copies of the export documents produced by the applicant showing the description, weight and quantities etc. of the goods exported as well as the copies of BRCs produced, Government observes that the bonafides of export of the impugned goods has been established and the goods in respect of which rebate claims / fixation of brand rate of duty drawback has been sought have actually been exported and therefore, in the instant cases rebate claims / fixation of brand rate of duty drawback cannot be denied for mismatch in the Central Excise Tariff Heading as given in ARE-I/Invoice and Shipping Bill.

21. In view of the above, Government sets aside the impugned Orders in **Appeal No. 508-510/2014-CE dated 28.08.2014, 716/2014-CE dtd. 20.11. 2014, 80-81/2015-CE dtd.20.02.2015, 189/2015-CE dtd. 26.03.2015 and 190-192/2015 dtd.26.03.2015** and remand back the cases to original authority for sanctioning of the claimed rebates / fixation of brand rate of duty drawback, after due verifications of documents and keeping in mind the above observations. The original authority is directed to pass appropriate order in accordance with law after following the principles of natural justice, within 8 weeks from the receipt of this order. **Revision Applications Nos. 195/340/14-RA,195/18/15-RA,195/48/15-RA.195/ 155 / 15-RA and 373/ 238/15-RA** (Sl. No. 1,3, 4, 5, and 6 of the Table at Para No. 1 Supra) are disposed off in terms of above.

22. Government further observes that in Revision Application No. 195/97/14-RA (Sl. No. 2 of the Table at para 1 above) the Commissioner (Appeals) rejected the appeal of the applicant against Order in Original No. 335/2013(R) dated 13.08.2013, for filing the same beyond the prescribed time limit. The applicant in its Revision Application contended that the Appellate authority did not consider the sufficient cause explained by them in the petition for condonation of delay and that the delay in filing the appeal 23 days caused due to staff was busy in statutory audit and they could not bring to the notice of the director in time for filing the appeal and the Appellate authority dismissed the appeal at the threshold stage despite having powers to condone the delay. The applicant also relied upon the West Zonal Bench Tribunal Mumbai's Order in S.S. Jain Vs Commissioner of Cus & C.Ex. Rajkot 2002 [(148) E.L.T. 340 (Tri. -Mumbai)] wherein the delay of 23 days in filing the appeal before Commissioner (Appeals) was condoned.

23. Government observes that the period of limitation for filing an appeal with the Commissioner (Appeals) was 60 days under sub-section 1 of Section 35 of the Central Excise Act, 1944. However, under the proviso to that sub-section, the Commissioner (Appeals) has power to condone delay up to 30 days. In the instant case, the appeal was filed within the condonable period of 30 days prescribed under the said proviso. Commissioner (Appeals) did not condone the delay, and rejected the applicant's appeal as time-barred. Government also observes that the reasons for the delay had been explained by the applicant and further the extent of delay was within the period which the Commissioner (Appeals) was empowered to condone. Accordingly, Government on being convinced of the reasons for delay put forth by the applicant, condone the delay of 23 days involved in the filing of the applicant's appeal with the Commissioner (Appeals). Accordingly, Government sets aside the impugned **Order in Appeal No. 71/2014-CE dtd. 13.02.2014** and remands the matter back to appellate authority to proceed with the applicant's appeal in accordance with law and the principles of natural justice. Revision Application **No. 195/97/14-RA** appearing at Sr. No. 2 of the Table at Para No. 1 Supra is disposed off in terms of above.

24. All the six Revision Applications (Sl. No. 1 to 6 of the Table at Para No. 1 Supra) are disposed off in terms of above.

25. So, ordered.

28/9/17

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

To

M/s Bio-Gen Extracts Pvt. Ltd.,
No.351, 14th Floor Cross,
Sunkadakatte, Magadi Road,
Bangalore -560 091.

ATTESTED

12/10/17

S.R. HIRULKAR
Assistant Commissioner (R.A.)

Copy to :

1. The Commissioner of GST & CX, North West, 2nd Floor, BMTC Bus Stand Complex, Shivaji Nagar, Bengaluru-560051.
2. The Commissioner of GST & CX (Appeals-II) Traffic & Transit Management Centre: BMTC Bus Stand Hal Airport Toad, Dommaluru, Bengaluru – 560 071
3. The Deputy / Assistant Commissioner of (Rebate), GST & CX, North West,2nd Floor, BMTC Bus Stand Complex, Shivaji Nagar, Bengaluru-560051
4. Sr.P.S. to AS (RA), Mumbai.
5. Guard File.
6. Spare copy.