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**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.195/19-23/14-RA / 6039

Date of Issue: 14.10.2021

363-367  
ORDER NO. /2021-CX (WZ) /ASRA/MUMBAI DATED 2.10.2021 OF THE  
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 CENTRAL EXCISE  
ACT,1944.

Applicant : M/s. Shree Meenakshi Food Products Pvt. Ltd.,  
Survey No. 179/1/5, Kuvapada Industrial Estate,  
Silli, Silvassa – 396 230.

Respondent : The Commissioner, CGST, Vapi.

Subject : Revision Applications filed, under Section 35EE of Central  
Excise Act, 1944 against the Order-in-Appeal No. VAP-  
EXCUS-000-APP-339 to 343-13-14 dated 24.10.2013 passed  
by the Commissioner (Appeals), Central Excise, Vapi.



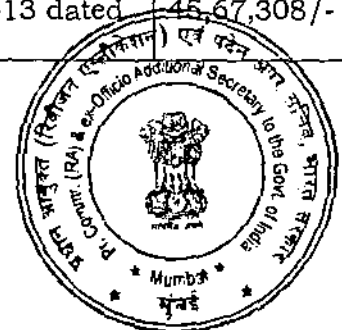
**ORDER**

This Revision application is filed by M/s Shree Meenakshi Food Products Pvt. Ltd., Silvassa (hereinafter referred to as the 'applicants') against the Orders-in-Appeal No. VAP-EXCUS-000-APP-339 to 343-13-14 dated 24.10.2013 passed by the Commissioner (Appeals), Central Excise, Vapi.

2. The applicants are manufacturer of Pan Masala with Gutkha falling under CSH 24039990 of First Schedule to the Central Excise Tariff Act, 1985. The impugned goods are notified under Section 3A of Central Excise Act, 1944. The applicants are clearing the said notified goods for home consumption as well as for export. The applicants are working under Compounded Levy Scheme and the duty is levied under Section 3A read with Pan Masala Packing Machines (Capacity Determination and Collection of Duty) Rules, 2008 (hereinafter referred as "PMPM Rules") as notified under Central Excise Notification No. 30/2008-CE(NT) dated 01.07.2008. The factor relevant to the production of notified goods shall be the number of packing machines in the factory of manufacturer under Rule 5 of the PMPM Rules. The duty payable is to be calculated under Rule 7 of the said PMPM Rules read with Notification No. 42/2008-CE dated 01.07.2008, on the number of operating packing machines in the factory during the relevant period. The applicant filed 5 Rebate claims towards duty of Excise paid on the goods exported as per the procedure prescribed under Notification No. 32/2008-CE (NT) dated 01.07.2008 along with the supporting documents.

3. The rebate sanctioning authority sanctioned the rebate claims to the applicant as detailed below.

Sl. No.	ARE-1 No. / Date	OIO No. / Date	Amount of Rebate granted (Rs.)
1.	80 dt. 05.02.2012	634/DC/SLV-IV/Rebate/2012-13 dated 05.02.2013	6,07,288/-
2.	58 dt. 16.12.2011	263/DC/SLV-IV/Rebate/2012-13 dated 22.06.2012	45,67,308/-



3.	70 dt. 28.12.2011	261/DC/SLV-IV/Rebate/2013-14 dated 22.06.2012	45,67,308/-
4.	71 dt. 29.12.2011	262/DC/SLV-IV/Rebate/2013-14 dated 22.06.2012	91,09,312/-
5.	75 dt. 26.01.2012	635/DC/SLV-IV/Rebate/2012-13 dated 05.02.2013	3,03,644/-

4. Aggrieved by the said Orders in Original, the department had filed an appeal before the Commissioner (Appeals), Central Excise, Vapi. The Appellate Authority vide Orders in Appeal No. VAP-EXCUS-000-APP-339 to 343-13-14 dated 24.10.2013 allowed all the four appeals of the department except proposal for penal action and set aside all the four respective Orders in Original. The observations drawn by the Appellate Authority on the above issues are as under:-

- a) As per Notification No. 42/2008-CE dated 01.07.2008, 'Gutkha' attracts excise duty under Section 3A of the Central Excise Act, 1944 (Compounded levy Scheme) and amount of duty varies depending upon retail sale price per pouch and the duty structure prescribed in the Table of the said Notification 42/2005-CE dated 01.07.2008. Further it was found that for determining the quantum of duty, payable per machine per month in terms of the said PMPM Rules, the JAC/ ADC should determine the Annual Capacity of production in respect of each product and there must be a declaration filed by the manufacturer in the prescribed format for determining such Annual Capacity of Production.
- b) The assessee (applicant in the RA) had filed declarations under the said PMPM Rules in respect of a series of products except "Goa 1000 Gutkha Red strips", which was claimed to have been exported in the instant cases and had thus failed to file declaration in respect of the export goods, which was mandatorily required under the PMPM Rules. When there was no declaration in respect of the particular quality/brand of gutkha exported, there could not be determination of Annual Capacity of production and under these circumstances, whatever duty paid could not be attributed to



'Goa 1000 Gutkha Red strip' exported by the applicant. Consequently, the goods shown as exported could not be related to duty paid by the applicant.

- c) The assessee (applicant in the RA) did not record production of the said export goods (Goa 1000 Gutkha Red strip) in the Daily Stock Account the relevant periods. Further, in the DSA, few pages were bearing serial numbers and few were without serial number. Thus, the assessee neither maintained daily production in the DSA Register nor submitted relevant document as per Section 11B of CEA 1944. Therefore, there was no evidence to show that duty liability had been discharged on the notified goods exported in the instant cases and rebate of duty could not be granted.
- d) The assessee's contention that the description of goods "Goa 1000 Gutkha" was same as "Goa 1000 Gutkha Red strip" and the significance/purpose of different colours strip was to differentiate the product quality-wise and MRP-wise was incorrect. The department contended that the goods "Goa 1000 Gutkha Red strip" was a separate brand having distinct MRP and quality whereas the applicant had licence to use only "Goa 1000". The argument of the assessee that they had license for a common trade name was not correct in as much as 25 items were registered by them for Trade Marks and 8 items registered under Copy Right. Referring to OIO dated 18.01.2013, the Appellate Authority observed that the assessee had filed a declaration dated 27.02.2013 for 'Goa 1000 Gutkha (purple strip), Goa 1000 Gutkha (Green strip), Goa 1000 Gutkha (Red strip) which stood duly approved by the JAC.
- e) The daily stock account for the relevant period mentioned the description of product as "Goa 1000 Gutkha export" and "Goa 1000 Gutkha (export)



with tobacco" whereas in the invoice and other export documents, the description of goods was mentioned as "Goa 1000 Gutkha Red strip" for which no stock account was maintained.

- f) The declarations filed by the assessee did not declare the said goods sought to have been exported. The assessee's explanation that in the description of 'Goa 1000 Red Strip', Red Strip was only for internal documentation was not correct since it had been mentioned so in the ARE-1, Export invoice, Shipping Bill and Bank Realisation Statement. Therefore, the brand "Goa 1000 Gutkha red strip" and Goa 1000 Gutkha were different brands and it was not declared by the applicant during the relevant period, hence no such brand was manufactured in their factory and no duty was paid on the export goods. Consequently, the rebate of duty was contrary to Rule 14A of PMPM Rules and Section 11B of CEA, 1944
- g) Applying the ratio in the case of CCE V/ s Avis Electronics Pvt Ltd. 2000 (117) ELT 571 (Tri.-LB), the Appellate Authority held that the assessee should have filed separate declaration for "Goa 1000 Gutkha Red strip" during the material time also as they did for later period and the failure on the part of the applicant to file separate declaration for the said goods was not a mere technical fault.
- h) As regards the department's challenge regarding the declaration of state of origin as "Gujarat" in the shipping bill whereas the factory of the applicant was falling under Silvassa in UT of Dadra 85 Nagar Haveli, no explanation regards the same has been submitted by the assessee and this supported the case of the department that the export goods were not



manufactured in the Silvassa factory and hence the source of goods is not established.

- i) There was no link between the goods cleared by the assessee under ARE-1, Excise Invoice/export invoice/shipping bill which showed that the procedure laid down under Rule 18 of Central Excise Rules, 2002 was not followed.

5. Aggrieved by the impugned Order in Appeal, the applicants have filed the instant Revision Applications on the following grounds :-

- a) They had declared the MRP of the product and the brand name 'Goa 1000 Gutkha' and the number of machines proposed to be used for manufacturing the concerned MRP product in the Form 1. As per the PMPM Rules, 2008, duty was liable to be paid with reference to the number of machines proposed to be used for manufacturing the declared product of specified MRP, as the duty changes with the MRP. As per Section 10 of Trade and Merchandise Act' 1958 so far as a trade mark is registered without limitation of color, it shall be deemed to be registered for all colors. From the above, it is explicit that, unless a product is registered with limitation of colour, in ordinary course, it is deemed to be registered for all colours.
- b) After self removal of goods for export purposes, the stipulated procedure as per Notification No. 19/2004 CE (N.T.) was followed. From the string of documentation for each export and examination by various agencies, it could be seen that the goods were manufactured, removed from the factory and the same were only exported, and the duty paid aspect of the goods has been verified by the Departmental officers.
- c) The goods were of 'Goa 1000 Gutkha' brand and irrespective of showing the colour strip on pouch in words in the invoice, as is done, it does not make the goods to be of different brand or different product.



- d) The clarificatory additional description 'Red strip' in the documents is superfluous, and the stock register also show only 'Goa 1000 gutkha' which was manufactured in the factory and exported. The allegation that the stock register did not show the product exported was incorrect, in as much as description of Red strip' was not shown as the stock was showing the product manufactured irrespective of the color of the pouch used to pack it. This superfluous description should be condoned, and should not cause deprivation of a substantial benefit of export rebate, as long as it was confirmed that the goods which were duty paid were exported.
- e) The Appellate Authority relied on the case of CCE vs M/s Avis Electronics Pvt. Ltd. 2000 (117) ELT 571 (Tri-LB), which is not at all relevant to the present case. The case law refers to Modvat credit when there was loss of duty paying document. Moreover, this decision was distinguished by the other Tribunals. In the other case law relied upon by the Appellate authority of M/s Kaizen Organics Ltd 2012 (283) ELT 743(GOI), the facts of the case were totally contrary, hence the relied upon judgment was not applicable in their case.
- f) The applicants relied upon the following case laws in support of their contention
- i) In RE: Shrenik Pharma Ltd, - 2012 (281) E.L.T. 477 (G.O.1) wherein it was held that procedural condition of technical nature and substantive condition in interpreting statute can be condoned so that substantive benefit is not denied for mere procedural lapses.
- ii) In RE: M/s Ace Hygiene products Pvt Ltd, - 2012 (276) ELT 131 (G.O.1) wherein it was held that "Claim for rebate can't be denied merely on procedural/technical lapse - Rule 18 of Central Excise Rules, 2002. - It is now trite law that the procedural infractions of notifications/circulars



should be condoned if exports have really taken place and the law is settled that substantive benefit cannot be denied for procedural lapses".

- iii) In RE: M/s Sanket Industries. - 2011 (268) E.L.T. 125 (G.O.I.) wherein it was held 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.
- iv) In RE: Leighton Contractors (India) Pvt. Ltd. — 2011 (267) ELT 422 (G.O.1). In this case it was held that it is now a title law 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. Procedure has been prescribed to facilitate verification of substantive requirement. This view of condoning procedural infractions in favour of actual export having been established has been taken by tribunal/Government of India in a catena of orders.
- g) There was no fraud or suppression of fact or clandestine removal of goods and no material evidence was forthcoming on record and no case law was found reasonable to hold that the applicant was not eligible to claim the rebate. There may be only a procedural lapse in following the prescribed procedural which was not intentional and that can be condoned as per the settled legal position explained supra, and this was done by the proper authority in the order in original. The appellate authority did not give any basis as to why such condonation granted is not valid.
- h) On these grounds, the applicant requested to set aside the impugned order in appeal.





6. Personal hearing was scheduled in this case on 16.01.2020, 22.01.2020, 05.02.2021, 19.02.2021, 19.03.2021 and 26.03.2021. However, no one appeared before the Revision Authority for personal hearing on any of the dates fixed for hearing. Since sufficient opportunity for personal hearing has been given in the matter, the case is taken up for decision on the basis of the records available.

7. Government has carefully gone through the relevant case records and perused the impugned Order-in-Original and Order-in-Appeal.

8. The facts stated briefly are that the applicants hold Central Excise Registration Certificate and are engaged in the manufacture of Pan Masala containing tobacco commonly known as 'Gutkha' falling under Chapter 24039990 of the First Schedule to the Central Excise Tariff Act, 1985 which is brought under the Compounded Levy Scheme with effect from 01.07.2008 as per the PMPM Rules notified vide Notification 30/2008-CE (NT) dated 01.07.2008. The issue involved in this case pertains to the rebate claims filed by the applicants in respect of duty paid on the excisable goods "Goa 1000 Gutkha Red strip". The rebate claims were sanctioned by the adjudicating authority. The department filed appeals before the Commissioner (Appeals), C.Ex, Customs and Service Tax, Vapi against the said Orders in Original. The appeal filed by the department was allowed by the Appellate Authority vide impugned Order in Appeal. Aggrieved by the said order in appeal, the applicant have filed instant revision application on the grounds mentioned in para 5 supra.

9.1 The Government finds that the applicant had cleared the notified goods "Goa 1000 Gutkha Red Strip" for export and claimed rebate of the excise duty under Rule 18 of Central Excise Rules 2002. The impugned goods are notified under Section 3A of the Central Excise Act, 1944 and the duty is levied under PMPM Rules, 2008 as notified under Notification No. 30/2008-CE(NT) dated 01.07.2008. The relevant factor for levy of duty has been specified as the number of machines' in the factory of the manufacturer under said rules.



manufacturer of impugned notified goods is required to file declaration under Rule 6 of the PMPM Rules, 2008 to the jurisdictional Central Excise Office before commencement of production. The duty payable is to be calculated under Rule 7 of the said rules read with Notification No. 42/2008-CE dated 01.07.2008, on the number of operating packing machines in the factory during the relevant period.

9.2 For better appreciation of the dispute, the Rule 6(viii) of PMPM Rules is produced below.

“Rule 6. Declaration to be filed by the manufacturer. –

- (1) A manufacturer of notified goods shall, immediately on coming into force of these rules, and, in any case, not later than ten days, declare, in Form 1, -
- (i) .....
  - (ii) .....
  - (viii) description of goods to be manufactured including whether pan masala or gutkha or both are to be manufactured, their brand names, etc;
  - (ix) ...”

9.3 The Government notes that the declaration under Rule 6(viii) as above, in the prescribed Form-1, is mandatory to enable the competent authority to determine annual capacity of production for each product/brand manufactured and exported by the manufacturer. The text of the column in Form-1 requiring the manufacturer to make declaration of the description of manufactured goods reads as “Description of goods to be manufactured including whether pan masala or gutkha or both are to be manufactured, their brand names, etc.”. In the instant case, it is observed that the applicant had failed to file any declaration in the prescribed Form-1, which was mandatorily required under the PMPM Rules, for the product mentioned in the export documents such as ARE-1, Shipping Bills etc. which showed the description as “Goa 1000 Gutkha Red Strip”. In the absence of the said declaration, the Jurisdictional Assistant/Deputy Commissioner was unable to determine the



annual production capacity for the product "Goa 1000 Gutkha Red Strip". In the absence of the mandatory declaration in Form-1, and as a result, non determination of the annual production capacity, it is evident without an iota of doubt, that the goods exported are not the goods on which duty is payable under the Rule 7 of the said PMPM Rules read with Notification No. 42/2008-CE dated 01.07.2008.

9.4. Government notes that the applicant, in the instant case, have claimed that the MRP of the product and the brand "Goa 1000 Guthka" had been declared by them and it applicable to "Goa 1000 Gutkha Red Strip". Government observes that the contention of the applicant is far from the facts. On perusal of the Rule 6(viii) of PMPM Rules as above, it noticed that the manufacturer of the notified goods operating under PMPM Rules must file declaration with the competent authority giving details such as description of notified goods to be manufactured with their brand names. Further to comprehend the precise connotation of the term 'brand', the definition of 'brand' as given by 'The American Marketing Association' is reproduced below:-

*"A brand is a name, term, design, symbol, or any other feature that identifies one seller's good or service as distinct from those of other sellers. The legal term for brand is trademark. A brand may identify one item, a family of items, or all items of that seller. If used for the firm as a whole, the preferred term is trade name."*

9.5 Thus, in common parlance, it is understood that the name, symbol, sign, product, service, logo, person, or any other entity that makes you distinguish a product from a clutter of products is known as a Brand. Also, anything that helps the customers to identify the product and distinguish the product from each other can be attributed as brand of the product.

9.6 In the instant case the very fact that the applicant have attached the words "Red", "Green" or "Purple" to the name of product while marketing it shows that the intention is to convey the distinguishing features of the products to their



customers. The Government holds that, attachment of these words to product name makes the products fall under different brands.

9.7. At the backdrop of discussion in the forgoing paras, the Government finds that the applicant in the Agreement dated 25th October 2009 had declared the products viz. GOA, GOA 1000, GOA GOLD GUTKHA, GOA MITHI SUPARI 1000, GOA MITHA PAN MASALA 1000, GOA KARISHMA, GOA CAPTAIN, GOA TIGER Gutkha, GOA TIGER Pan Masala, GOA FRESH Mouth freshener and GOA ONE. Simultaneously, it is also observed that the applicant had not declared the product "Goa 1000 Gutkha Red Strip" in the said agreement nor did they declare the product in any declaration filed with the department under Rule 6 of PMPM Rules. The applicant, being manufacturer of notified goods, were expected to be more accurate while filing the declaration under Rule 6 of the PMPM Rules.

10.1 It is further observed that the Daily Stock Register showed the goods manufactured as "Goa 1000 Gutkha" instead of "Goa 1000 Gutkha Red Strip". The applicant has made out some arguments to justify the manner in which they have maintained their daily stock account. Before analysing the facts, it would be pertinent to keep in sight the objective of the legislature in requiring manufacturers to maintain daily stock account in the era of self assessment. The entire system of self assessment bases its faith in the assessee. There is no day to day interference of the Department in the working of a manufacturer assessee. Therefore, the Department is entirely dependent upon the records maintained by the assessee manufacturer to assess the central excise duty due to the exchequer. The records maintained by the assessee manufacturer are a crucial cog in the era of self assessment. The work flow from the point of receipt of duty paid inputs/inputs procured without payment of duty, the credit utilised on such inputs and capital goods, the quantity of inputs utilised for manufacture, the quantity of inputs used up in the manufacture of final products, the quantity of inputs present in work in progress products and finally the quantity of goods manufactured by the assessee manufacturer is documented by the assessee himself. These records enable the Department to ascertain whether the revenue



due to the government has correctly been paid. It is towards this end that the requirements of maintenance of records by the assessee have been prescribed in the statute and the rules. Hence, this should be the milieu in which the provisions for maintaining daily stock account must be looked at.

10.2 The text of Rule 10 of the CER, 2002 which has been made applicable to the PMPM Rules, 2008 by Rule 18 thereof is reproduced below.

*“Rule 10 Daily stock account –*

*(1) Every assessee shall maintain proper records, on a daily basis, in a legible manner indicating the particulars regarding description of the goods produced or manufactured, opening balance, quantity produced or manufactured, inventory of goods, quantity removed, assessable value, the amount of duty payable and particulars regarding amount of duty actually paid.”*

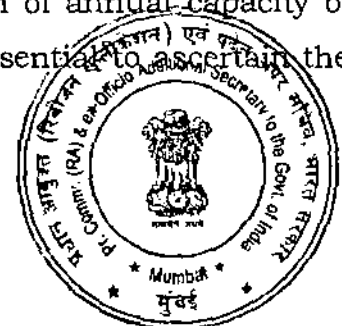
The rule firstly requires that the assessee is to maintain proper records on a daily basis and in a legible manner. The words “proper records” finding mention the rule have a definite purpose. They place upon the assessee the responsibility of maintaining records accurately and in such a manner that the Department is able to get a full picture of the manufacturing activity being carried out. Going further, the rule requires the assessee to record the description of the goods. The description of the goods merely by their brand name when they have manufactured and sold in different sizes/weights would not be “description of the goods produced or manufactured” as signified by the rule. Such a description as is sought to be canvassed by the applicant would be inadequate and worthless as the daily stock register would only mention the brand name of the product. Nothing can be deciphered from such a “description” about the stock of goods manufactured and stored in the BSR of the assessee. The rule also requires the assessee to maintain an “inventory of goods”. The word “inventory” means a detailed list of all things. In layman’s terms all useful particulars which have a bearing on the valuation, duty liability of the manufactured goods must be recorded in the daily stock register. From the Central Excise point of view a



detailed list would be one where one is able to comprehend the measure of a particular manufactured goods; viz. in actual physical terms in a standard of weight or measure. Needless to say, this view would be of particular relevance insofar as evasion prone commodities like "gutkha" are concerned. Any other kind of inventory which merely mentions the name of a product would serve no useful purpose.

10.3 The use of these three sets of words in Rule 10 of the CER, 2002 should be enough to signify the importance attached by the rule to the detail in which the daily stock register is required to be maintained. An interpretation which renders words in a statute to be superfluous cannot be accepted. The contention of the applicant that as the description 'red strip' is not shown it can not be concluded that the stock register does not show the product exported, defeats the very purpose of the rule and is an absurdity. Surely such an interpretation of the rule prescribing maintenance of daily stock account would render it redundant. Therefore, Government strongly disapproves of this contention of the applicant as they are manufacturing gutkha in packages of various sizes/weights/identity/colours, whereas the said product i.e "Goa 1000 Gutkha Red Strip" has not been declared to the Department while determining the capacity of production. Additionally, the daily stock register maintained by the applicant does not anywhere evidence the manufacture of "Goa 1000 Gutkha Red Strip" and therefore the claim of clearance of the said product on payment of duty is far-fetched.

10.4 The Government finds that as per the Notification No. 42/2008-CE dated 01.07.2008, the impugned product i.e. 'Gutkha' attracts Central Excise Duty under Section 3A of Central Excise Act, 1944 under Compounded Levy Scheme and the amount of duty payable fluctuates based on the Retail Sale Price per pouch of each product and duty structure stipulated under the Notification No. 42/2008-CE dated 01.07.2008. Therefore, determination of annual capacity of production for each notified product manufactured is essential to ascertain the



appropriate amount of duty payable per machine per month in terms of PMPM Rules, 2008. In the instant case, it is found that the applicant had not filed declaration under Rule 6(viii) of PMPM Rules, 2008 for the exported goods viz "Goa 1000 Gutkha Red Strip". As such, the duty payable in respect of the product claimed to have been exported by the applicant has not been paid. Therefore, the goods exported by the applicant cannot be co-related with duty paid by the applicant during the relevant month / period. Further, it is also noticed that the applicant had not maintained the Daily Stock Account Register, required under provisions of Rule 10 of Central Excise Rules, 2002, in respect of the exported goods. These facts indicate that the applicant had failed to determine the production of the exported notified goods and to discharge duty liability in respect of goods exported.

10.5 The non-maintenance of Daily Stock Account Register by itself implies that the applicant has not manufactured the said exported notified goods. In view of above, it is found that there is no correlation of goods exported to that of duty discharged by the applicant. As such, Government holds that the rebate of duty on goods claimed to have been exported cannot be determined and granted in the instant case as rightly held by the appellate authority.

10.6 The Government also notes that the state of origin was declared to be "Gujarat" in the shipping bill whereas the factory of the applicant falls under Silvassa in UT of Dadra 86 Nagar Haveli. The Government observes the Appellate Authority while passing the impugned order in appeal has observed that the source of goods was not established beyond doubt and the applicant had not come forward with any explanation in this regard.

10.7. Government also observes that the reliance placed by the applicant on various case laws mentioned in para 5 supra is misplaced in as much as the applicants/appellants in those cases had substantially complied with the provisions under the relevant Notifications/Circulars whereas in the instant case



the applicant has failed to follow the provisions under PMPM Rules, 2008 as rightly held by Appellate Authority in the Orders In Appeal. The applicant has failed to file declaration in the prescribed format in respect of the exported goods, failed to record the production of the said goods in the Daily Stock Account, misstated the place of manufacture of the exported goods and failed to substantiate the payment of duty on the clearance of goods exported. The PMPM Rules, 2008 have been introduced specifically to curtail revenue leakage in respect of pan masala and gutkha which are evasion prone commodities. These rules are consistent with the provisions of the Central Excise Act, 1944 and the rules thereunder and therefore they carry statutory force. The applicant has failed to comply with the provisions of the PMPM Rules, 2008 and the notifications granting rebate. The ratio of the judgment of the Hon'ble High Court of Madras in the case of India Cements Ltd. vs. Union of India [2018(362) ELT 404(Mad)] would be relevant here. The relevant text is reproduced.

*"27. Whenever a statute requires a particular thing to be done in a particular manner, it is a trite position of law that it should be done in that manner alone and not otherwise. ...."*

Since the applicant has failed to comply with the requirements of the PMPM Rules and the CEA, 1944 and the rules/notifications issued thereunder, the reliance placed on these case laws by the applicant is also misplaced.

10.8. In view of above discussion, Government holds that the applicant had failed to comply with statutory provisions of the PMPM Rules and follow the procedure thereunder rendering them to be ineligible for any rebate of excise duty on product "Goa 1000 Gutkha Red Strip" claimed to have been exported.

11. In view of above position, Government holds that the Appellate Authority has rightly concluded that the rebate claims are not admissible to the applicant under Rule 18 of Central Excise Rules, 2002 read with Notification No. 19/2004-C.E. (N.T.), dated 06.09.2004. Government does not find any infirmity in the





VAP-EXCUS-000-APP-339 to 343-13-14 dated 24.10.2013 passed by the Commissioner (Appeals), Central Excise, Vapi and therefore, upholds the impugned order in appeal.

12. The revision applications filed by the applicant are hereby rejected.

*Shrawan*  
*12/10/21*  
(SHRAWAN KUMAR)  
Principal Commissioner & Ex-Officio  
Additional Secretary to Government of India

To

M/s. Shree Meenakshi Food Products Pvt. Ltd.,  
Survey No. 179/1/5, Kuvapada Industrial Estate,  
Silli, Silvassa - 396 230

*363-367*  
ORDER NO. /2021-CX (WZ) /ASRA/MUMBAI DATED *12*-10.2021

Copy to :

1. The Commissioner of CGST & Central Excise, Daman, 2<sup>nd</sup> floor, Hani's Landmark, Vapi Daman Road, Chala, Vapi - 396191
2. The Commissioner of GST & CX, Surat Appeals, 3<sup>rd</sup> floor, Magnus Building, Althan Canal Road, Near Atlanta Shopping Centre, Althan, Surat- 395 017.
3. Sr. P.S. to AS (RA), Mumbai.
4. Guard File.
5. Spare copy.

