

REGISTERED
SPEED POST



F.No. 195/251-259/2015—R.A.
195/02-17/2018---R.A.
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

14, HUDCO VISHALA BLDG., B WING
6th FLOOR, BHIKAJI CAMA PLACE,
NEW DELHI-110 066

Date of Issue..6.12.18

Order No.388-4/2/2018-CX dated 02-07-2018 of the Government of India, passed by Shri R. P. Sharma, Principal Commissioner & Additional Secretary to the Government of India, under Section 35 EE of the Central Excise Act, 1944.

Subject : Revision Application filed under section 35 EE of the Central Excise Act, 1944, against the Orders-in-Appeal Nos.JAL-EXCUS-000-APP-061-15-16 dated 10/06/2015 AND JAL-EXCUS-001-APP-083-098-17-18 DATED 31/10/2017, passed by the Commissioner (Appeals), Customs & Central Excise, Chandigarh.

Applicant : JCT Limited, Phagwara

Respondent : Commissioner of Central Excise, Jalandhar.

ORDER

Twenty Five Revision Applications Nos. 195/251-259/2015-R.A. dated 04/09/2015 and 195/02-17/2018-R.A. dated 10/01/2018 have been filed by M/s JCT Limited, Phagwara (hereinafter referred to as the applicant) against the Orders-in-Appeal Nos. JAL-EXCUS-000-APP-061-15-16 dated 10/06/2015 and JAL-EXCUS-001-APP-083-098-17-18 dated 31/10/2017, passed by the Commissioner (Appeals), Central Excise, Chandigarh, whereby the applicant's appeals against the orders-in-original have been rejected.

2. The brief facts leading to the present proceeding before the Government are that the applicant M/s JCT Ltd., Phagwara, had filed rebate claims for duty of excise paid on exported goods and the same were sanctioned by the original adjudicating authority with the sanctioned amount to be credited in the capital goods account of CENVAT. Being aggrieved, the applicant filed appeals against this order before Commissioner (Appeals) who upheld the orders-in-original vide the above said orders-in-appeal dated 10/06/2016 and 31/10/2017.

3. The applicant has filed the present revision applications mainly on the ground that respondent should have allowed the rebate by way of cash instead of credit in the CENVAT account as there was no bar on payment of cash rebate in notification no. 96/2009-Cus dated 11/09/2009 and Rule 18 of Central Excise Rules, 2002.

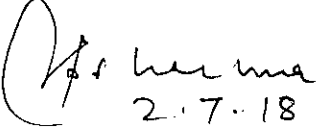
4. A personal hearing was offered on 15/05/2018 which was availed by Sh. Joy Kumar, Advocate, and Sh. Sandeep Sachdeva, DGM(F&A) for the

applicant who reiterated the grounds of revision already pleaded in their application. But no one appeared for the respondent and no request has been received from them for any other date of hearing in this matter implying that they do not require any personal hearing.

5. The Government has examined the matter and has found that there is no dispute regarding admissibility of rebate of duty in this case as the rebate has been sanctioned by the original adjudicating authority in the form of CENVAT credit, his order upheld by the Commissioner (Appeals) also in his order and the order-in-appeal is challenged by the applicant only for the reason that rebate of duty should be granted in cash and not by crediting their CENVAT credit account. In this regard Rule 18 of Central Excise Rules, 2002 and Notification No. 19/2004-CE (NT) dated 06/09/2004 are examined and it is found that these two relevant provisions for this matter do not provide anywhere that if the duty of central excise is paid from CENVAT credit for exported goods then rebate of duty is to be granted in CENVAT credit account only. These two provisions talk of granting rebate only and the same can be possible only in cash and not in the form of CENVAT credit as CENVAT credit can be availed and allowed only under CENVAT Credit Rules, 2004 and there is no provision for availing or allowing CENVAT credit under Rule 18 of Central Excise Rules, 2002. The CBEC (now CBIC) has categorically clarified vide its Circular No. 687/3/2003-CX dated 03/01/2003 that there is no discretion with the sanctioning authority to give the refund of duty paid on the goods exported and duty paid through CENVAT credit must be refunded in cash only. Even earlier the CBEC had clarified vide its Circulars Nos. 153/64/95-CX dated 12/10/1995, 262/96/96-CX dated 06/11/1996, 407/40/98-CX dated 15/07/1988 and 408/41/98-CX dated 20/07/1998 that the rebate of duty

paid through MODVAT (CENVAT) credit is to be paid in cash only. Thus the orders passed by the Commissioner (Appeals) in this case are erroneous in view of the said circulars of CBEC and the government finds merit in the applicant's plea that the rebate should have been paid in cash to them.

6. Accordingly, the revision applications filed by the applicant are allowed.


2.7.18

(R. P. Sharma)

Additional Secretary to the Government of India

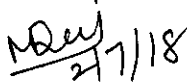
M/s JCT Ltd.,

GT Road, Phagwara-144 401

G.O.I. Order No.388 - 472/18-Cx dated 27-2018

Copy to:-

1. Commissioner of Central Excise, Jalandhar.
2. Commissioner (Appeals), Central Excise, Chandigarh-II.
3. PA to AS(Revision Application)
- ✓ 4. Guard File
5. Spare Copy


27/18

NIRMALA DEVI
(Section officer)
(Revision Application unit)