

REGISTERED
SPEED POST

F.No. 198/40/2015-RA
F.No.198/42/2015-RA
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GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

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

Date of Issue.....5/1.....

ORDER NO. 39-4/18-Cx DATED 05-01-2018 OF THE GOVERNMENT OF INDIA, PASSED BY SHRI R.P.SHARMA 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 Order-In-Appeal No. 203-233(SLM)CE/JPR/2015 dated 20.04.2015, No. 255-271(SLM)CE/JPR/2015 dated 29.04.2015 and No. 234-247(SLM)CE/JPR/2015 dated 20.04.2015 passed by the Commissioner of Central Excise (Appeals), Jaipur

Applicant : Commissioner of Central Excise, Udaipur

Respondent: M/s. Mittal Pigments Pvt. Ltd.

ORDER

The following revision applications have been filed by Commissioner of Central Excise, Udaipur, (herein after referred to as the applicant),

R.A. No.	Order-in-Appeal No. & Date
198/40/2015-RA dated 06.05.2015	203-233(SLM)CE/JPR/2015 dated 20.04.2015
198/42/2015-RA dated 01.05.2015	255-271(SLM)CE/JPR/2015 dated 29.04.2015
198/43/2015-RA dated 01.05.2015	234-247(SLM)CE/JPR/2015 dated 20.04.2015

2. The common issue involved in all the above mentioned Revision Applications is whether rebate of duty is admissible to the applicant on export of goods under DFIA scheme. The original adjudicating authority rejected the rebate Claims of the appellant on the ground that the appellant has wrongly paid the duty from CENVAT credit accounts on exported goods despite of the fact that goods were exported under DFIA scheme as per which they were not entitled to pay duty on the finished exported products and the appellant had paid duty on the exempted goods exported out of India without any authority of law. Being aggrieved by the said Order-in-Original, applicant filed above mentioned appeals before Commissioner (Appeals) Jaipur, who set aside the impugned Order and allowed the claims of the appellant. But now the applicant has filed the above mentioned

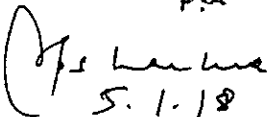
revision applications with a request to set aside the order of Commissioner (Appeals).

3. Personal Hearing in the matter was fixed for 15.12.2017. But nobody attended the hearing and no request for further adjournment from applicant was also received from which it is implied that the applicant is not interested in personal hearing. Therefore, the revision applications are taken up for disposal on the basis of materials available on record.

4. On examination of all the relevant records, it is clearly noticed that the goods manufactured by applicant have been exported on payment of duty from CENVAT Credit and no doubt has been expressed by any departmental authority about this fact. Only reason cited for rejection of the rebate claim of the respondent by AC, Division and the Commissioner (Appeals) is that the applicant was not authorized to pay duty of excise on goods exported under DFIA Scheme. The respondent has also not denied this fact and has accepted that they were availing the DFIA scheme. However, no Central excise provision has been cited by Assistant Commissioner in the revision application which prohibited the manufacturer to pay Central excise duty on exported goods while availing DFIA scheme. Whereas, as per the provisions of the Rule 18 of the Central excise Rules, 2002, if any goods on which the central excise duty has been paid on the exported goods then the same is to be reimbursed as rebate of duty and it does not stipulate that if the goods are exported under DFIA scheme then the exporter cannot pay the duty on such goods. Further, the DFIA scheme also does not debar the exporter from paying Central excise duty on the final finished exported goods. Therefore, no legal basis has been provided

in this case to establish that the respondent has committed any error by paying duty on exported goods. Since the respondent has undoubtedly paid duty on exported goods utilizing CENVAT Credit already available with them, no legal error can be attributed in this case as it is also not the case of the applicant that CENVAT credit was not legitimately earned by the applicant. Since the respondent has undoubtedly exported the goods on payment of Central excise duty and no contravention of any other condition stipulated in Rule 18 of Cenvat Credit Rules, 2002 and notification no. 19/2004-ce (NT) has been alleged in the case, rebate of duty is admissible to the applicant.

5. In view of the above facts and discussions, the revision applications filed by the applicant are rejected.


5.1.18

(R.P.SHARMA)

(Additional Secretary to the Government of India)

✓ The Commissioner of Central Excise & Service tax,
Udaipur, 142 - B, Sector - 11, Hiran Magri,
Udaipur - 313 002(Rajasthan)

ATTESTED

(Ravi Prakash)
OSD (RA)

Order No. 39-4/18-Cx dated 5-1-2018

Copy to:-

- ✓ 1. M/s. Mittal Pigments Pvt. Ltd., A-203, Indraprastha Indl. Area, Road No. 05, Kota(Raj.), 324 005.
- ✓ 2. The Commissioner (Appeals), Central Excise, Jaipur, NCR Building Statue Circle, C – Scheme, Jaipur.
- ✓ 3. The Assistant/Dy. Commissioner of Central Excise Division, Kota, CAD Circle, DADABARI Road, Kota, Rajasthan 324009.
4. PS to AS (Revision Application).
5. Guard File.
6. Spare Copy.