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GOVERNMENT OF INDIA
MINISTRY OF FINANACE
DEPARTMENT OF REVENUE

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8th Floor, World Trade Centre, Cuffe Parade,
Mumbai- 400 005

F.No.195/10-12/WZ/2020/1685 Date of Issue: 09.05.2022

ORDER NO.397-399/2022-CX (WZ)/ASRA/MUMBAI DATED 29.04.2022 OF THE GOVERNMENT OF INDIA PASSED BY SHRI SHRAWAN KUMAR, PRINCIPAL COMMISSIONER & EX-OFFICIO ADDITIONAL SECRETARY TO THE OF INDIA, UNDER SECTION 35EE OF THE CENTRAL EXCISE ACT, 1944.

Applicants : M/s VE Commercial Vehicles Ltd,
Plot No 52/1,52/2,
Indore Ratlam Highway
Village Baggad, Distt Dhar.

Respondents : Commissioner of CGST, Indore

Subject : Revision Application filed, under Section 35EE of the Central Excise Act, 1944 against the Order-in-Appeal No. IND-EXCUS-000-APP-326 to 328-18-19 dated 29.11.2018 passed by the Commissioner (Appeals), CGST & CEX, Indore.

ORDER

This Revision Application is filed by M/s VE Commercial Vehicles Ltd, Plot No 52/1,52/2, Indore Ratlam Highway, Village Baggad, Distt Dhar (hereinafter referred to as "the Applicant") against the Order-in-Appeal No. IND-EXCUS-000-APP-326 to 328-18-19 dated 29.11.2018 passed by the Commissioner (Appeals), CGST & CEX, Indore.

2. The facts of the cases in brief are that the applicant filed following 3 Rebate Claims before the jurisdictional Division in-charge of Central Excise under Rule 18 of the Central Excise Rules, 2002

Sr No	Date of filing claim	ARE-1No/date	Amount involved	OIO No and date	Appeal
1	08.05.2018	46,72,73,90 to 98, 104, 106 & 107/17-18 dated between 26.04.2017 to 19.06.2017	1,71,21,633	07/DC/Rebate/2018-19 dated 10.08.2018	267/2018-19
2	10.05.2018	62,63,65,74 to 89 and 99 to 110/17-18 dated between 27.04.2017 to 28.05.2017	1,16,21,587	09/DC/Rebate /2018-19 dated 10.08.2018	265/2018-19
3	19.06.2018	109/17-18 dated 21.06.2017	10,40,742	13/DC/Rebate/2018-19 dated 30.08.2018	273/2018-19

The said claims were rejected by the adjudicating authority vide the impugned orders-in-original, on the grounds that the conditions stipulated under Notification No 19/2004-CE (NT) dated 06.09.2004 issued under Rule 18 of the Central Excise Rules 2002 were not followed in as much as

(i) The excisable goods were not exported directly from the factory of the manufacturer;

(ii) The triplicate copy of ARE-1's was not bearing seal and signature of the Range Officer, and that the applicant did not intimate the Range Officer within 24 hours of clearance for export;

(iii) No certification of the authorized person that the goods were exported was found on the ARE-I as required in case of self-sealing and self-certification in-terms of procedure as Sr No 3(a)(xi) of the said Notification;

(iv) Due to consolidated duty debit entry at the end of the month for the excisable goods cleared for domestic and export clearances, hence it was not possible to ascertain as to whether proper duty payment was made and as to whether sufficient balance was there in the applicants Cenvat Credit account or not;

(v) In respect of claim at Sr. No. 3 of above table, the goods cleared under invoice No. 33243 dated 21.06.2017 and Shipping Bill No.5116139 dated 25.05.2018 were exported after the expiry of six months. Similarly in respect of claim at Sr. No. 2 of above table, the goods covered under ARE-1 Nos.105 & 110, were cleared on 16.06.2017 and 21.06.2017, respectively but were exported after the expiry of six months, while in respect of Claim at Sr. No.1 of above table, the goods covered under ARE-1 Nos. 93 & 94 which were cleared from the factory on 26.05.2017, were exported on 30.01.2018 ie. after the expiry of six months. Further, no permission was sought by the applicant for extension of the time limit in either of the three detailed above;

4. Being aggrieved by the Orders-in-Original, the applicant filed appeals before the Commissioner (Appeals), CGST & CEX, Indore. The Appellate Authority vide Orders-in-Appeal Nos. IND-EXCUS-000-APP-326 to 328-18-19 dated 29.11.2018 partially allowed the appeals by way of remanding back to the original authority and rejected the appeal in cases where goods had been exported after six months from the clearance from the factory. The Appellate Authority while passing the impugned Orders-in-Appeal observed that

i) As regards the basic objection of the Adjudicating Authority about non-compliance of conditions of Notification No. 19/2004-CE (NT), dated 06.09.2004 by not exporting the goods directly from the factory, the Appellate Authority observed that from the documents it was clear that the goods were delivered from the Baggad unit of the applicant to the Port of export and that it was a common practice in many cases of export, the commercial invoice/export invoice was issued by the corporate office or export division of the manufacturer exporter and minor irregularities in documentation of export goods cannot alter the fact that the excisable goods cleared from the factory of manufacture had moved directly from the factory to the port of shipment and thus the observations of the Adjudicating Authority in this regard were not sustainable and the matter was remanded back to the adjudicating authority.

ii) As regards the relevant Triplicate copy of ARE-1 not bearing signature and seal of the jurisdictional Range Officer, there was force in the applicants contention that *it was the duty of the jurisdictional Range Officer to sign and put his seal the* ARE-1. and hence there was no fault on the part of the applicant on this issue and there was no violation of this condition of the relevant notification by the applicant.

iii) As regards the ground of rejection that the applicant had not submitted any record regarding availment and utilization of cenvat credit showing debit entry of central excise duty paid in respect of each invoice and had failed to prove that the Central Excise duties of Rs. 1,71,21,633/-, Rs. 1,16,21,587/ and Rs. 10,40,742/- had been actually paid on exported goods, the Appellate Authority observed that the consolidated debit entry, which is legally permissible under Rule 8 of the said Rules could have been easily verified by the Adjudicating Authority through the Range Superintendent but no such verification was done and the rebate claim was rejected on the grounds that the applicant failed to prove duty payment on exported goods. This, the Appellate Authority stated, was a violation of principles of natural justice and not sustainable and remanded back to the jurisdictional Adjudicating Authority.

iv) As regards to Adjudicating Authority's findings that no certification of the authorised person certifying that the goods were exported was found on the ARE-1's, as required in case self-sealing and self-certification in terms of procedure 3(a)(xi), *the Appellate Authority observed that procedure under 3(a)(xi) was not applicable* in the instant case as the instant cases were of opting for examination of goods at the place of export through the Customs authorities and that the Customs Authorities had also not taken any objection about identity of the excisable goods brought to port for export. Therefore, it proved that the excisable goods brought to the Port for the shipment were the same excisable goods which were cleared from the factory under ARE-1's, without following self-sealing procedure and that such minor procedural lapses cannot vitiate the rebate claim of the exporter, if the goods had been exported out of India and duty has been paid on goods so exported.

v) As regards the issue of FOB value being less than the ARE-1 value and allegation that the duty has been paid in excess which can be allowed as re-credit into their Cenvat credit account, the Appellate Authority observed that that these goods have been exported under the provisions of Central Excise Act, 1944 and Rules made thereunder and allowing any part of the refund/ rebate claim in the instant case as re-credit in cenvat account was of no use to the applicant in the GST regime and also defeated the basic purpose of the transition provisions. The Appellate

Authority held that if the refund/ rebate claims were found to be sanctionable then the same was required to be paid in cash as per sub section (3) of section 142 of the CGST Act, 2017.

vi) As regards to goods being exported beyond six months from their removal from factory in respect of goods cleared under Invoice No. 33243 dated 21.06.2017 (referred in O-I-O No. 13/DC/Rebate/2018-19), ARE-1 No.93 & 94 dated 26.05.2017 (referred in O-I-O No. 7/DC/Rebate/2018-19) and ARE-1 No.105 dated 16.06.2017 & ARE-1 No.110 dated 21.06.2018 (referred in O-I-O No. 9/DC/Rebate/2019) the Appellate Authority observed that the same is no disputed and that the applicant should have approached the jurisdictional Commissioner for extension of the time limit, which has not been done by the applicant and the rebate claims have been rightly rejected by the Adjudicating Authority.

The Appellate Authority set aside the impugned adjudication order partially allowed the appeal filed by the Appellant by way of remand back of the case to the jurisdictional adjudicating authority excluding the cases where the goods had been exported after six months from their clearance for export from the factory.

5. Being aggrieved by the impugned Order-in-Appeal, the applicant filed instant Revision Application against that part of the OIA where rebate was rejected on the grounds that the goods were exported after six months from the clearance from the factory.

i) That the basic condition for granting rebate under Rule 18 is that the goods must be exported on payment of Central Excise duty and the six months restriction was imposed when the goods exported without payment of Central Excise duty for safeguarding of the revenue. In the present case, the revenue was not in danger because the goods were exported on payment of duty and finally it is established that the goods, under reference, were exported.

ii) That further the condition (b) as mentioned in the said notification itself speaks that extension for proof of export can be granted as a quasi judicial authority and also on the basis of various judgements of Government of India, rebate can be granted even when goods have been exported after six months from the date of clearance.

The applicant has cited the following case laws in support of their contention

a) CCE vs. Birla Tyers [2005(179) ELT 417 (CESTAT)]
b) Harison Chemicals [2006(200) ELT 171(GOI)]
c) Chamunda Pharma Machinery vs. CCE [2009(244) ELT 492]

iii) That when Govt. of India has decided that even if the goods were exported beyond six months, the rebate should not be rejected, it would not be proper in the interest of the justice to disallow the rebate claim on procedural aspects.

iv) That the Appellate Authority had erred in placing reliance on the case of M/s Kosmos Healthcare Pvt. Ltd. vs. GOI reported at [2013 (297) ELT 465 (GOI)] in rejecting the rebate claim in respect of the goods which were exported beyond six months as the same was overruled by Hon'ble High Court Kolkata. [2013 (297) E.L.T. 345 (Cal.)]

v) That the goods cleared under invoice no. 33243 dated 21.06.2017 was cleared after eleven months i.e. delay of five months occurred at Custom port. Similarly in ARE-1 Nos.93 & 94 dated 26.05.2017 (invoice No. 33179 to 33188 dated 26.05.2017) involving rebate of Rs.1275790/-) goods were finally exported after six months under shipping bill number 2515999 dated 30.01.2018 and ARE-1 Nos.105 & 110 dated 21.06.2017 (invoice Nos. 33210 to 33219 all dated 16.06.2017 & 33244 to 33253 all dated 21.06.2017 involving rebate of Rs.30,29,907/-) were finally exported after six months under shipping bill nos. 1857242, 1857282 dated 28.12.2017, 2515999 dated 30.01.2018 and 253144 dated 31.01.2018.

vi) That in view of the judgement delivered by Hon'ble Court in the case of M/s Kosmos Healthcare Pvt. Ltd. vs. GOI reported at [2013 (297) E.L.T. 345 (Cal.)] the present rebate claim is liable to be allowed as no allegation had been raised on the export of the goods.

vii) That in view of emphasis of Govt. of India that no rebate claim should be rejected on technical grounds of procedural lapses, the rebate claim stands eligible and is to be allowed.

The applicant has cited the following case laws in support of their contention

a) Commr. of S.T, Noida vs Atrenta India Pvt Ltd [2017 (48) S.T.R. 361 (All.)]
b) Formica India Division vs. Collector of C Excise [1995 (77)E.L.T. 511 (S.C.)]
c) Tricon Enterprises Pvt Ltd [2015 (320) E.L.T. 667 (G.O.I.)].
d) Zandu Chemicals Ltd vs. UOI [2015 (315) E.L.T. 520 (Bom.)]
e) Sanket Industries Ltd. [2011 (268) ELT 125 (GOI)]

6. Personal hearing in this case was scheduled on 02.12.2021. Shri Rabi Sankar Roychoudhury, Advocate and Shri Chimanlal Dangi, Consultant appeared for hearing on behalf of the applicant and made additional submissions pertaining to the instant case and stated that the rebate in respect of exports after six months may be allowed.

7. The applicant in their additional submission filed on the date of hearing reiterated the facts and grounds made by them in the Revision Application and cited the following case laws in addition to the above in support of their contention

a) Suksha International vs. UOI – [1989 (39) E.L.T. 503 (S.C.)]
b) Union of India vs. AV Narasimhalu – [1983 (13) E.L.T. 1534 (S.C.)]
c) Harison Chemicals [2006(200)ELT171 (GOI)]
d) Chamunda Pharma Machinery vs. CCE [2009(244)ELT492]
e) Ace Hygiene Products Pvt Ltd [2012 (276) E.L.T. 131 (G.O.I.)]

7.1 The applicant filed further written submissions on 13.12.2021 under which they submitted a copy of the application dated 07.012.2021 claimed to have been filed before the jurisdictional Commissioner for condonation of delay in respect of goods which were exported beyond six months from the date of their clearances from the factory during 2017-18 and also evidences indicating that goods were exported on payment of duty. In the submissions, the applicant has submitted that as per the judgement of the Hon'ble High Court of Calcutta in the case of M/s Kosmos Healthcare Pvt Ltd vs. GOI [2013(297)ELT 345] 'Rebate-Export obligation - Time stipulation of six months in Notification No 19/2004-CE (NT)-Its extension can be granted post facto, and is no required to be obtained in advance.'

8. Government has carefully gone through the relevant case records available in case files, and perused the impugned Order-in-Original and Order-in-Appeal and the written synopsis filed during the personal previous hearing and also further written submissions dated 13.12.2021.

8.1 On perusal of records, Government observes that the respondent had filed rebate claims of duty totally amounting to Rs. 2,97,83,962/- in respect of goods exported by them, which was rejected by the adjudicating authority on various grounds. The Appellate Authority partially allowed the appeals of the applicant by way of remanding back of the case to the jurisdictional adjudicating authority

excluding rebate claims in cases where the goods had been exported after six months from their clearance for export from the factory in terms of Rule 18 of Central Excise Rules, 2002 read with Notification No. 19/2004-CE (NT) dated 06.09.2004.

8.2 Government notes that the applicant has reasoned that the basic condition of Rule 18 Central Excise Rules, 2002 was satisfied as the goods were actually exported on payment of duty and non adherence to the time stipulation was a procedural infraction and the rebate claim should be rejected on technical grounds or for procedural lapses.

8.3 Government notes that there are many of Government of India Orders wherein it is held that the limiting condition of goods to be exported within six months of clearance from the factory and requirement of permission by authority for extension of time, is statutory and mandatory condition under Notification No. 19/2004-C.E. dated 06.09.2004 issued under Rule 18 of Central Excise Rules, 2002 and as a result rebate is not allowed for violation of said mandatory conditions. However, Government also notes that in Order No. 1228/2011-CX, dated 20-9-2011 of Kosmos Healthcare Pvt. Ltd.[2013 (297) E.L.T. 465 (G.O.I.)] the rebate claim was denied on the grounds that *"Clause 2(b) of Notification No. 19/2004-C.E. (N.T.), dated 6-9-2004 stipulates that the excisable goods shall be exported within six months from the date on which they were cleared for export from the factory of manufacture, which has been violated by the applicant; that they had not made any application for extension of time-limit before proper authority; that they had not produced any permission granting extension of time limit from competent authority till date; that the non-compliance of a substantive condition of Notification cannot be treated as a procedural lapse to be condoned"*. This Order No. 1228/2011-CX, dated 20-9-2011 was challenged by Kosmos Healthcare Pvt. Ltd. before Hon'ble High Court Calcutta vide Writ Petition No. 12337(W) of 2012.

8.4 The Hon'ble High Court Calcutta while remanding back the case to the Revisionary Authority vide its Order dated 19.09.2012 observed as under:

> *"21. On a reading of the Notification No. 40/2001 there is nothing to show that the time stipulation cannot be extended retrospectively, after the export, having regard to the facts of a particular case. The benefit of drawback has, in numerous case, been allowed notwithstanding the delay in export. This in itself shows that the respondent authorities have proceeded on the basis that the time stipulation of six months is not inflexible and the time stipulation can be*

condoned even at the time of consideration of an application for refund/drawback.

....

....

28. When there is proof of export, as in the instant case, the time stipulation of six months to carry out export should not be construed within pedantic rigidity. In this case, the delay is only of about two months. The Commissioner should have considered the reasons for the delay in a liberal manner.

29. It would perhaps be pertinent to note that an exporter does not ordinarily stand to gain by delaying export. Compelling reasons such as delay in finalization and confirmation of export orders, cancellation of export orders and the time consumed in securing export orders/fresh export orders delay exports.

30. As observed above, the notification does not require that extension of time to carry out the export should be granted in advance, prior to the export. The Commissioner may post facto grant extension of time.

31. What is important is, the reason for delay. Even after export extension of time may be granted on the same considerations on which a prior application for extension of time to carry out export is allowed. If there is sufficient cause for the delay, the delay will have to be condoned, and the time for export will have to be extended. In my view, in considering the causes of delay, the Commissioner would have to take a liberal approach keeping in mind the object of the duty exemption, which is encouragement of exports.

32. Of course, in a case of inordinate unexplained delay or a case where the delay has caused loss of revenue to the Government or in a case where there is reason to believe that export has been delayed deliberately with ulterior intention, for example, for higher gain in anticipation price variation, the delay may not be condoned.

33. The impugned revisional order is set aside and quashed. The Respondent No. 3 is directed to decide the revisional application afresh in the light of the observations made above."

The applicant in their submissions have relied upon aforesaid Order of Hon'ble High Court Calcutta to further their claim that the delay was a procedural infraction and be condoned.

8.5 Upon perusal of Order Hon'ble High Court Calcutta referred supra, Government observes that Hon'ble High Court has interalia observed that the *"Notification No.40/2001 does not require that extension of time to carry out the export should be granted in advance, prior to the export; that the Commissioner may post facto grant extension of time; that what is important is, the reason for delay; that even*

after export extension of time may be granted on the same considerations on which a prior application for extension of time to carry out export is allowed; that if there is sufficient cause for the delay, the delay will have to be condoned, and the time for export will have to be extended; that in considering the causes of delay, the Commissioner would have to take a liberal approach keeping in mind the object of the duty exemption, which is encouragement of exports". Government further observes that the Hon'ble High Court in the order has further noted that, *"in a case of inordinate unexplained delay or a case where the delay has caused loss of revenue to the Government or in a case where there is reason to believe that export has been delayed deliberately with ulterior intention, for example, for higher gain in anticipation price variation, the delay may not be condoned".*

8.6 In the instant case, Government does not find anything on record indicating that the respondent had applied for extension of time in respect of delayed exports, either before or even after carrying out exports explaining the reasons for the delay to the competent authority. Government, taking into account the directions of Hon'ble High Court, Calcutta is of the considered opinion that in the absence any application for extension of time explaining sufficient cause for delay by the applicant, delay cannot be condoned. Hence, the reliance placed by the applicant on the aforesaid case law is misplaced.

9. In this regard, Government finds it pertinent to reproduce the relevant part of the Order of Hon'ble High Court of Judicature at Bombay dated 15.09.2014 dismissing the Writ Petition No. 3388 of 2013, filed by M/s Cadila Health Care Limited [2015 (320) E.L.T. 287 (Bom.)] and upholding the Order-in-Original dated 23.12.2009 which is as under:-

> *2. The concurrent orders are challenged on the ground that there was compliance with the notification and particularly the condition therein of export from the factory of manufacturer or warehouse. Though Condition No. 2(b) of the Notification No. 19/2004-C.E. (N.T.), dated 6th September, 2004 requires that the excisable goods shall be exported within six months from the date on which it were cleared for export from the factory of manufacture or warehouse, Mr. Shah would submit that the condition is satisfied if the time is extended and it is capable of being extended further by the Commissioner of Central Excise. In the present case, the power to grant extension was in fact invoked. Merely because the extension could not be produced before the authority dealing with the refund/rebate claim does not mean that the claim is liable to be rejected only on such formal ground. The notification itself talks of a condition of this*

nature as capable of being substantially complied with. The authority dealing with the claim for refund/ rebate could have itself invoked the further power and granted reasonable extension.

3. We are unable to agree because in the facts and circumstances of the present case the goods have been cleared for export from the factory on 31st January, 2005. They were not exported within stipulated time limit of six months. The application was filed with the Jurisdictional Deputy Commissioner of Central Excise/Assistant Commissioner of Central Excise much after six months, namely, 17th June, 2005 and extension was prayed for three months upto 31st October, 2005. The goods have been exported not relying upon any such extension but during the pendency of the application for extension. The precise date of export is 9th September, 2005. The Petitioners admitted their lapse and inability to produce the permission or grant of extension for further period of three months.

4. In such circumstances and going by the dates alone the rebate claim has been rightly rejected by the Maritime Commissioner (Rebate) Central Excise, Mumbai-III by his order which has been impugned in the writ petition. This order has been upheld throughout, namely, order-in-original dated 23rd December, 2009. The findings for upholding the same and in backdrop of the above admitted facts, cannot be said to be perverse and vitiated by any error of law apparent on the face of the record. There is no merit in the writ petition. It is accordingly dismissed.

9.1 Government observes that in the said case, the Hon'ble Bombay High Court in order dated 15.09.2014, while interpreting the amplitude of condition 2(b) of Notification No 19/2004 dated 06.09.2004 held that the Maritime Commissioner (Rebate) had rightly rejected the rebate claim where permission granting extension could not be produced by the exporter. Inspite of the fact that the petitioner in that case was on a better footing as they had tried to obtain permission from the Commissioner for extension of time limit of six months, their Lordships did not extend any relief.

9.3 Government observes that the aforesaid High Court order dated 15.09.2014 (which is passed later to Hon'ble High Court Calcutta Order dated 19.09.2012 in Writ Petition No. 12337(W) of 2012 in case of M/s Kosmos Healthcare Pvt. Ltd. which is relied upon by the respondent) is a clear instance of treating Condition No. 2(b) of the Notification No. 19/2004-C.E. (N.T.), dated 06.09.2004 issued under Rule 18 of the Central Excise Rules, 2002 as a mandatory condition and certainly not a procedural requirement, and violation of which renders Rebate claims inadmissible.

10. Government also relies on GOI Order No. 390/2013-CX dated 17-5-2013 [2014 (312) E.L.T. 865 (G.O.I.)] in Re: Ind Swift Laboratories Ltd. involving identical issue wherein Government held as under:

> *9. Government notes that the Condition No. 2(b) of the Notification No. 19/2004-C.E. (N.T.), dated 6-9-2004 issued under Rule 18 of the Central Excise Rules, 2002 which reads as under :*
>
> *"The excisable goods shall be exported within six months from the date on which they were cleared for export from the factory of manufacturer or warehouse or within such extended period as the Commissioner of Central Excise may in any particular case allow :"*
>
> *As per the said provision, the goods are to be exported within 6 months from the date on which they are cleared for export from factory. The Commissioner has discretionary power to give extension of this period in deserving and genuine cases. In this case in fact such extension was not sought. It is obvious that the applicants have neither exported the goods within prescribed time nor have produced any extension of time limit permitted by competent authority. The said condition is a statutory and mandatory condition which has to be complied with. It cannot be treated as an only procedural requirement.*
>
> *10. In light of above position, Government observes that the rebate claim is not admissible to the respondents for failure to comply the mandatory condition of Notification No. 19/2004-C.E. (N.T.), dated 6-9-2004. The respondents have categorically admitted that goods were exported after six months' time. They stated that they were in regular business with the buyer and in good faith, they provide him a credit period which is variable from consignment to consignment. As the buyer has not made the payment of an earlier consignment, therefore, they were left no option but to stop the instant consignment. The contention of the respondents is not tenable for purpose of granting rebate in terms of said Notification No.19/2004-C.E. (N.T.), dated 6-9-2004. Since rebate cannot be allowed when mandatory condition 2(b) laid down in Notification No.19/2004-C.E. (N.T.) is not complied with. Government accordingly sets aside the order of Commissioner (Appeals) and restores the impugned Order-in-Original."*

11. Government takes note of the fact that the condition 2(b) of Notification No. 19/2004-CE(NT) dated 06.09.2004 is not rigid and allows for some latitude to the exporter in that it provides them with the opportunity of approaching the jurisdictional Commissioner for extension of the prescribed time limit. In the instant case the applicant has claimed to have submitted an application dated 07.12.2021 before the competent authority for condonation of delay for extension of time and quoting the judgement of the Hon'ble High Court Calcutta in the case of M/s Kosmos

Healthcare Pvt Ltd vs. GOI supra has claimed that the extension can be granted post facto and is not required in advance. Government notes that the applicant has filed the application after an abnormal delay after adjudication by original authority, appellate authority and after filing Revision Authority and without citing any reasons for the delay. Besides, there is nothing on record evidencing that the competent authority considered the application favourably and has granted permission for extension of time limit of six months. Thus, in the present case, there has been failure on the part of the applicant in not approaching the competent authority and in not obtaining permission from the competent authority for extension of time, which cannot be justified.

12. In view of the foregoing discussion and applying the rationale of case laws referred above, Government holds that the respondent is not entitled to rebate of duty in respect of goods not exported within the period of six months of clearance from the factory, in violation of condition No. 2(b) of the Notification No. 19/2004-C.E. (N.T.), dated 06-09-2004 issued under Rule 18 of the Central Excise Rules, 2002. Government, therefore, find no reason to modify the Order-in-Appeal No. IND-EXCUS-000-APP-326 to 328-18-19 dated 29.11.2018 passed by the Commissioner (Appeals), CGST & CEX, Indore and therefore upholds the same.

13. The Revision Application is thus rejected being devoid of merits.

Shrawan 29/04/22

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

397-
ORDER No. 399/2022-CX (WZ)/ASRA/Mumbai DATED 29.04.2022

To,
M/s VE Commercial Vehicles Ltd,
Plot No 52/1,52/2,
Indore Ratlam Highway
Village Baggad, Distt Dhar.

Copy to:

1. The Commissioner of CGST, Ujjain, 29 GST Bhavan, Administrative Area, Bharatpuri, Ujjain 456 010.
2. The Commissioner (Appeals), Indore, Manik Bagh Palace, Post Box No. 10, Indore 452014 (M.P.)

3. Sr. P.S. to AS (RA), Mumbai
4. Notice Board
5. Spare Copy.