

195/914-915/13-RA

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GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
8th Floor, World Trade Centre,
Centre - I, Cuffe Parade,
Mumbai-400 005

F.No.195/914-915/13-RA / 1264

Date of Issue 07.03.2018

ORDER NO. 44-45/2018-CX (WZ) / ASRA / MUMBAI / DATED 06.03.2018 OF THE GOVERNMENT OF INDIA PASSED BY SHRI ASHOK KUMAR MEHTA , PRINCIPAL COMMISSIONER & EX-OFFICIO ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA, UNDER SECTION 35EE OF THE CENTRAL EXCISE ACT, 1944.

Applicant : M/s. Jyoti Colours Pvt. Ltd.

Respondent : Commissioner (Appeals) of Central Excise, Mumbai-III.

Subject : Revision Application filed, under Section 35EE of the Central Excise Act, 1944 against the Order-in-Appeal No. BC/24 /M.III/2013-14 dated 25.04.2013 and Order-in-Appeal No. BC/25/M.III/2013-14 both dated 25.04. 2013 passed by the Commissioner (Appeals) of Central Excise, Mumbai-III.

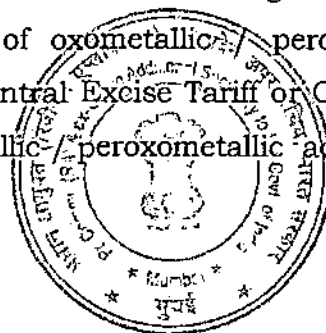


ORDER

The instant Revision Applications are filed by Jyoti Colours Pvt. Ltd., (hereinafter referred to as "the applicant") against from the Order-in-Appeal No. BC/24 /M.III/2013-14 dated 25.04.2013 and Order-in-Appeal No. BC/25/M.III/2013-14 dated 25.04.2013

2. The issue in brief is that the applicant had filed a Rebate Claim under the provisions of Rule 18 of CER 2002 read with Notification No.19/2004-CE(NT) dated 06.09.2004 amounting to Rs.2,13,210/- in respect of goods exported by them. The Adjudicating Authority vide Order dated 283 R/VKJ/DC(RC)/M-III/12-13 date 22.02.2013 rejected the rebate claim of Rs. 50,058/- due to variance in classification / chapter heading in the ARE-I and relevant shipping bill in respect of one of the product "Zinc Chrome". Similarly, another Rebate claim filed by the applicant under the provisions of Rule 18 of CER 2002 read with Notification No.19/2004-CE(NT) dated 06.09.2004 amounting to Rs.2,76,864/- in respect of goods exported by them was also rejected by the Adjudicating Authority vide Order No. 271R/DS/AC(RC)/M-III/12-13 dated 15.02.2013 also due to variance in classification / chapter heading in the ARE-I and relevant shipping bill in respect of one of the product "Zinc Chrome".

3. Being aggrieved by the said Order-in- Original, applicant filed appeals before Commissioner (Appeals), who vide Order in Appeal No. BC/24/ M.III/2013-14 dated 25.04.2013 and No. BC/25/M.III/2013-14 dated 25.04.2013 upheld the Orders of original Adjudicating Authority on the ground that when the goods cleared for exports as reflected in the Central Excise invoice and ARE-1 was pigment falling under Chapter sub heading 32061900, then by no stretch of imagination can the same product be considered as "salts of oxometallic/ peroxometallic acids" falling under 28415090 of either Central Excise Tariff or Customs Tariff or RITC Code and thus, "salts of oxometallic/ peroxometallic acids" referred t as Zinc Chrome in



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the invoice /ARE-1 and cleared for export even though the quantities match and this discrepancy cannot be treated as procedural lapses.

4. Being aggrieved with the impugned Orders-in-Appeal, the applicant has filed these Revision Applications under Section 35 EE of the Central Excise Act, 1944 before the Central Government on various Grounds.

5. A personal hearing in the matter was fixed on 05.02.2018, however, the applicant did not appear for the hearing and thereafter vide letter dated 28.02.2018 the applicant informed that they would not like to proceed further in the above matter and would not like to persuade the claim any more and that they are withdrawing the appeal and requested Government to close the file.

6. Government notes that the applicant has himself requested for withdrawal of the Revision Applications vide letter dated 28.02.2018. Under such circumstances, Government without going into the merits of the case, allows the applicant to withdraw the Revision Applications bearing F.No.195/914-915/13-RA. These Revision Application are dismissed as withdrawn.

7. So, ordered.

(Signature)

6/3/18

(ASHOK KUMAR MEHTA)

Principal Commissioner & Ex-Officio
Additional Secretary to Government of India

ORDER No. 38-39/2018-CX (WZ) /ASRA/ DATED 06-03-2018

True Copy Attested

To,

M/s Jyoti Colours Private Limited.,
486, 11th Cross, 8th Main Road,
J.P. Nagar 2nd Phase,
Banglore-560 078.

(Signature)
6-3-18

एस. आर. हिरुलकर
S. R. HIRULKAR
(A-C)



Copy to:

1. The Commissioner, CGST & Central Excise Commissionerate, Navi Mumbai.
2. The Commissioner (Appeals), CGST & Central Excise, Raigad.
3. The Deputy Commissioner (Rebate), CGST & Central Excise Navi Mumbai, Division VI.
4. Sr. P.S. to AS (RA), Mumbai.
5. Guard File.
6. Spare Copy.

