

REGISTERED  
SPEED POST



F.No. 195/1478/12-RA  
GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(DEPARTMENT OF REVENUE)

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

Date of Issue.....

Order No. 494/2018-Ex dated 01-8-2018 of the Government of India passed by Shri R.P.Sharma, Principal Commissioner & Additional Secretary to the Government of India, under section 35EE of the Central Excise Act, 1944.

Subject : Revision Application filed, under section 35EE of the Central Excise Act, 1944, against Orders-in-Appeal No. 183-CE/MRT-I/2012 dated 10.07.2012, passed by the Commissioner of Central Excise (Appeals), Meerut - I.

Applicant : M/s Themis Medicare Ltd.

Respondent: The Commissioner of Central Goods & Services Tax,  
Dehradun

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ORDER

A Revision Application No. 195/1478/12-RA dated 22.11.2012 has been filed by M/s Themis Medicare Ltd., Uttarakhand (hereinafter referred to as the applicant) against Order-in-Appeal No. 183-CE/MRT-1/2012 dated 10.07.2012, passed by the Commissioner (Appeals), Meerut-I, whereby the appeal of the applicant has been rejected the order of the original adjudicating authority has been upheld.

2. Brief facts of the case leading to the filing of the Revision Applications are that the applicant had filed a rebate claim of 8384/- under notification 21/2004-CE(NT) dated 06.09.2004 which was rejected by the original adjudicating authority for the reason that the goods were cleared for export by the applicant without obtaining prior permission from the jurisdictional Assistant Commissioner in terms of the above said notification. The applicant filed an appeal with Commissioner (Appeals) who also rejected the appeal. Being aggrieved by the order, the applicant has filed the present Revision Application mainly on the ground that under notification 21/2004CE(NT) dated 06.09.2004 no time limit for permission has been prescribed and ARE-2 numbers mentioned in Order-In-Appeal are different from those mentioned in the show cause notice.
3. Personal hearing was held on 14.06.2018 which was availed by Shri S.B. Lal, consultant, for the applicant who furnished written submissions dated 14.06.2018 during the hearing apart from reiterating the grounds of revision already pleaded in their application. However, no one appeared for the respondent on the said date of hearing and even earlier on 24.05.2015. No request for any other date of hearing was also received from which it is implicit that the respondent is not interested in availing personal hearing in this case.
4. The Government has examined the matter and it is observed that there is no dispute that the duty paid inputs have been used in the manufacture of exported goods and the rebate of input duty is denied by the lower authorities only on the ground that the applicant had not filed a declaration regarding export of goods and not furnished input output ratio etc. as stipulated in notification 21/2004-CE(NT) dated

06.09.2004. The applicant has also not denied this fact and has claimed that the above lapse on their part is only procedural and their substantive benefit of rebate of duty should not be disallowed. It is further claimed by the applicant that subsequently they had submitted three letters dated 09.03.2009, 19.07.2010, 13.04.2011 regarding export of goods covered in the present proceeding and even permission to export the goods and approval of input output ratio was informed to them vide Division's letter dated 16.06.2009 and letter dated 20.10.2011. The copy of these letters are also produced alongwith the Revision Application and it is claimed that these letters had been enclosed alongwith their appeal before the Commissioner (Appeals) also but these were not considered while rejecting their appeal. On bare reading of notification 21/2004 it is evident that the condition regarding filing of declaration regarding export of goods and providing of input output ratio alongwith their clarification and rates of duty etc. are of prime importance as these are very essential for enabling the jurisdictional authorities to verify the correctness of the details given by the exporter and particularly the correctness of the rebate of duty claimed by the exporter. But at the same time the Government strongly feels that non compliance of these conditions and the procedures must not be used as easy tools to reject the genuine rebate claims of the exporter if the errors can be rectified subsequently. Thus, if the input output ratio can be verified later on and it has been approved subsequently by the same jurisdictional authorities in respect of the same exported goods, non following of the conditions regarding the filing of declaration of input output ratio earlier should not come in the way of granting rebate of duty as the ultimate objective of the conditions and procedures specified in the notification 21/2004 is only to ensure granting of rebate of duty to the genuine exporters and to encourage them to achieve the goal of maximum exports. The applicant has claimed that even if they had missed to file the declaration of input output ratio earlier, they had filed these declarations subsequently on three occasions and these were even approved by the jurisdictional Assistant Commissioner. However, it is evident from the Order-In-Appeal that the above facts were not considered and their appeal was rejected mainly by observing that the above stated conditions were mandatory and these were not complied by the applicant. After taking stock of above discussed facts, the Government considers it appropriate that

the rebate claims of the applicant must be reconsidered by the jurisdictional Assistant Commissioner/Deputy Commissioner in the light of input output ratio subsequently approved by the jurisdictional Assistant Commissioner in respect of the same exported goods as is claimed by the applicant. Hence the matter is remanded back to the jurisdictional Assistant Commissioner to decide the issue relating to admissibility of rebate claims afresh in the light of all relevant records and documents produced by the applicant and after according proper opportunity to the applicant to explain their case.

5. Accordingly, the Order-In-Appeal is set aside and the Revision Application is allowed in terms of above discussion.

*(R. P. Sharma)*  
1.8.18

Additional Secretary to the Government of India

M/s. Themis Medicare Limited,  
Sector 6-A, Plot No. 16, 17 & 18,  
IIE, Sidcul, Haridwar,  
Uttarakhand.

Order No. 494/2018-Cx dated 01-8-2018

Copy to:

1. The Commissioner of Central Goods & Services Tax, Dehradun, "E" Block, Nehru Colony, Haridwar Road, Dehradun - 248 001.
2. The Commissioner (Appeals), Meerut - 1, Central Excise Commissionerate, Meerut - 1, Opp. CCS University, Mangal Pandey Nagar, Meerut(U.P.)
3. The Assistant Commissioner of Central Excise, Central Excise Division, E-Block, Nehru Colony, Dehradun-Haridwar Road, Dehradun(Uttarakhand)
4. PA to AS(RA)
5. Guard File.
6. Spare Copy

ATTESTED

*(Signature)*  
1.8.2018

(Debjit Banerjee)  
Sr. Technical Officer (R. A. Unit)