



F.No. 195/27/15-RA (CX)
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.....

ORDER NO. 496/2018-CX dated 01-8-2018 OF THE GOVERNMENT OF INDIA, PASSED BY SHRI RAJPAL SHARMA, 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 the Order-in-Appeal No. LUD-EXCUS-000-APP/ 254/ 14-15 dated 31.10.2014 passed by the Commissioner of Customs & Central Excise (Appeals), Chandigarh-I.

APPLICANT : M/s Gardex, Unit-IV, Village Bistrampur, Tehsil-Kartarpur, District- Jalandhar (Punjab)

RESPONDENT : The Commissioner of Central Goods & Services Tax, Jalandhar (Hqrs. at Ludhiana), CGST House, F Block, Rishi Nagar, Ludhiana-141001 (Punjab).

ORDER

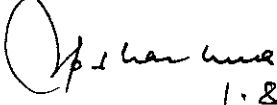
A Revision Application No. 195/27/15-RA (CX) has been filed by applicant M/s Gardex, Unit-IV, Village Bistrampur, Tehsil- Kartarpur, District- Jalandhar (Punjab) (herein after referred to as the applicant) against Order-in-Appeal No. LUD-EXCUS-000-APP/ 254/ 14-15 dated 31.10.2014, passed by the Commissioner of Customs & Central Excise (Appeals), Chandigarh-I, in respect of the applicant's appeal against Order-in Original No. Reb/ 2876 to 2929/ DC/ Jal/ 2012 dated 17.12.2012 of the Deputy Commissioner, Central Excise Division, Jalandhar.

2. The Brief facts leading to the filing of the Revision Application are that the applicant had claimed input stage rebate of duty out of which rebate of duty of Rs.15,038/- involved in ARE-2 no. 138 dated 25.07.2012 and rebate of duty of Rs. 67,195/- involved in ARE-2 no. 644/ 27.07.2012 were rejected by the jurisdictional Assistant Commissioner on the ground that description of Crow Bar P/H 17 Lb as given in the export documents did not match with the stock register, ARE no. 644 was wrongly mentioned in related Central Excise invoice and vice versa and the number of pallets mentioned in ARE-2 and shipping bill also did not match. The applicant's appeal before the Commissioner (Appeals) was also rejected by the Commissioner (Appeals) under his above referred order dated 31.10.2014. Being aggrieved the applicant has filed the present Revision Application mainly on the grounds that Crow Bar P/H 17 Lb as mentioned by them in the export documents and Post Hole Bar 17 Lb as mentioned in their stock register are one and the same product and wrong mentioning of date of ARE-2 in excise invoice and of excise invoice in ARE-2 are just clerical mistakes which can be condoned.

3. Personal Hearing in this case was held on 06.06.2018 and it was availed by the applicant who reiterated the above-mentioned grounds of revision. However, no one appeared for the respondent and no request for any other date for hearing was also received from which it is implicit that the respondent is not interested in availing the personal hearing.

4. The Government has examined the matter and it is observed that the rebate of duty of above mentioned amount has been disallowed for the above stated two technical reasons only and no dispute has been raised by the lower authorities with regard to export of goods and use of duty paid inputs for the manufacture of the said exported goods. As regards the ground taken for rejection of rebate claim that Crow Bar P/H 17 Lb is a different product from Post Hole Bar 17 Lbs, no substantive evidence has been cited in the orders of lower authorities to conclude that the above two descriptions are for the two products and the report of the Jurisdictional Range Officer has only been referred to in their support. Whereas the applicant has claimed that Crow Bar P/H 17 Lb and Post Hole Bar 17 Lb are one and the same and are not different products as claimed by the lower authorities. Prima facie these two descriptions appears to be for the one product only as is claimed by the applicant and in absence of any contrary concrete evidence it cannot be accepted that Crow Bar P/H 17 Lb and Post Hole Bar 17 Lb are two different products. Moreover, it is not explained in the order of the Assistant Commissioner and in the order of Commissioner (Appeals) as to how this issue is relevant at all for the purpose of granting rebate of duty in respect of the inputs used in the manufacture of exported Crow Bar P/H 17 Lb. Similarly, the dates of ARE-2 no. 614 and the excise invoice have been mentioned wrongly in each other apparently by confusing the dates of these two documents with each other as the date of excise invoice is 28.09.2011 and the date of ARE-2 is 29.09.2011. Thus, the mistake of mentioning the wrong dates in the two documents is apparently clerical only. But no other seriousness with regard to this mistake is explained in the O-I-O and O-I-A. Above all, in both the cases the actual export of goods and use of duty paid inputs is not doubted at all and, therefore, the Government finds that the rebate of duty has been wrongly denied to the applicant merely for a trifle reason which is not in consonance with the policy of the Government, which is to grant rebate of duty on the genuine exports. Hence, the rebate of duty of Rs.15,038/- and Rs. 67,157/- is also admissible to the applicant.

5. Accordingly, the O-I-~~A~~ is set aside and the Revision Application filed by M/s Gardex, Unit-IV, Village Bisrampur, Tehsil- Kartarpur, District- Jalandhar (Punjab) is allowed.


1.8.18
(RAJPAL SHARMA)

ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA

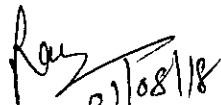
M/s Gardex, Unit-IV,
Village Bisrampur, Tehsil- Kartarpur,
District- Jalandhar (Punjab)

901 No-496/2018-LR dt-01/08/2018

Copy to: -

1. The Commissioner of Central Goods & Services Tax, Jalandhar (Hqrs. At Ludhiana),
CGST House, F Block, Rishi Nagar, Ludhiana-141001 (Punjab).
2. The Commissioner of Central Excise & Customs (Appeals),
Ludhiana, F Block, Rishi Nagar, Ludhiana-141001 (Punjab).
3. The Deputy/ Assistant Commissioner of Central Tax, Jalandhar
4. PS to AS(RA)
5. Guard File.

ATTESTED


01/08/18

(Ravi Prakash)

OSD (RA)