



F.No. 195/28/15-RA (CX)  
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. 497/2018-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/ 252/ 14-15 dated 30.10.2014, 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. 195/28/15-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/ 252/ 14-15 dated 30.10.2014, passed by the Commissioner of Customs & Central Excise (Appeals), Chandigarh-I, in respect of the applicant's appeal against Order-in Original No. Reb/ 2395-2418/Jal/ DC/2012 dated 30.10.2012 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 rebate of inputs duty of Rs 19,13,044/- against duty paid on inputs used in the manufacture of exported goods out of which rebate of Rs.2,34,814/- and of Rs.87,305/- was denied by the original Adjudicating Authority vide his Order-in-Original no. Reb/ 2395-2418/Jal/ DC/2012 dated 30.10.2012. Their appeal filed before the Commissioner (Appeals) was partly rejected and partly allowed under the aforesaid Order-in-Appeal dated 30.10.2014 in as much as while rejection of the rebate of Rs.87,305/- is upheld, the rejection of rebate of Rs.2,34,814/- is set aside.

2. Being aggrieved against Order-in-Appeal, the applicant has filed the present Revision Application against the rejection of the rebate claim of Rs. 85,315/- involved in ARE-2 no.845 mainly on the grounds that they had exported 288 pieces of FG handle 36" under the said ARE-2, the use of duty paid inputs in manufacturing of the exported goods is not disputed by any authority, they had challenged the rejection claim of Rs. 87,305/- before the Commissioner (Appeals) and substantive benefit cannot be denied only because of wrong mentioning of shipping bill no. in the Forward Cargo Receipt (FCR).

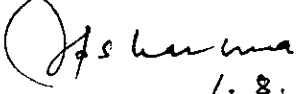
3. Personal Hearing in this case was held on 06.06.2018 and it was availed by the applicant who reiterated the above-mentioned grounds of revision pleaded in their

application. 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 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. The Government has also found that the Commissioner (Appeal)'s observation that the appellant had not challenged the rejection of rebate of Rs.87,305/- before him is not found to be true as the applicant had undoubtedly filed an appeal with regard to the rejection of rebate claim of Rs. 2,34,814/- and Rs. 87,305/-. The appeal with regard to rejection of Rs. 85,315/- was filed mainly on the grounds that they had fulfilled the conditions and procedure stipulated in notification 21/ 2004 which are not considered by the Commissioner (Appeals) at all and their appeal has been rejected solely on the ground that the Forwarders Cargo Receipt did not contain the reference of correct shipping bill no. which was taken as main ground of rejection by the original authority. But the Government is of the view that even if Forwarders Cargo Receipt related reason was not agitated by the applicant before the Commissioner (Appeals) it cannot be accepted that the applicant had not challenged the rejection of rebate claim of Rs. 87,305/- since other reasons had been advanced in their appeal. Moreover, Forwarders Cargo Receipt is not even an export document and, therefore, only because wrong shipping bill no. was mentioned in Forwarders Cargo Receipt it could not be made a basis for rejection of applicant's claim. Hence, the issue regarding admissibility of rebate of duty should have been considered in the light of applicant's other grounds of appeal, their export documents like ARE-2, Shipping Bills, Bill of Lading, invoices etc. and the input invoices which were undoubtedly overlooked by the Commissioner (Appeals). Since there is no dispute regarding use of duty paid inputs in the manufacture of

exported goods and following of conditions and procedure of notification no. 21/ 2004, the Government agrees with the applicant's case that rebate of duty is admissible to them and the same cannot be denied merely because of insignificant lapse of wrong mentioning of shipping bill no. in the Forwarders Cargo Receipt which is not relevant in the context of rebate of duty.

5. Accordingly, the O-I-~~1~~ is set aside and the Revision Application filed by M/s Gardex, Unit-IV, Village Bisrampur, Tehsil- Kartarpur, District- Jalandhar (Punjab) is allowed.

  
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(RAJPAL SHARMA)

ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA

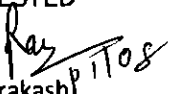
M/s Gardex, Unit-IV,

Village Bisrampur, Tehsil- Kartarpur,

District- Jalandhar (Punjab)

Copy to:- G.O. No-497/18-CR dt-01/08/2018

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  
  
(Ravi Prakash)  
OSD (RA)