

REGISTERED
SPEED POST



F.No. 195/766/2012-R.A.
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. 498/2018-CX dated 01-8-18 of the Government of India, passed by Shri R.P.Sharma, Principal Commissioner & Additional Secretary to the Government of India, under Section 35 EE of the Central Excise Act, 1944.

Subject : Revision Application filed under Section 35 EE of the Central Excise Act, 1944 against the Order-in-Appeal No.36-CE/MRT-I/2012 dated 2.2.2012 passed by Commissioner of Central Excise (Appeals), Meerut-I.

Applicant : M/s. Aglowmed Limited, Roorkee

Respondent : Commissioner of Central Goods & Service Tax, Dehradun

ORDER

A revision application No.195/766/2012-R.A. dated 25/07/2012 is filed by M/s. Aglowmed Limited, Roorkee (hereinafter referred to as the applicant) against Order-in-Appeal No.36-CE/MRT-I/2012 dated 2.2.2012, passed by the Commissioner of Central Excise (Appeals), Meerut-I whereby their appeal against the OIO denying their rebate claims has been rejected.

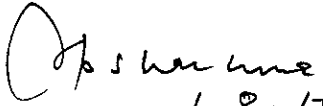
2. The revision application has been filed mainly on the grounds that the filing of declaration with regard to input output ratio etc. under Notification No.21/2004-CE (NT) dated 6.9.2004 is only a procedural lapse and the Commissioner (Appeals) has erroneously ignored the Joint Secretary (RA)'s Order No.1567-1569/11-Cx dated 25.11.11.

3. Personal hearing was fixed in this case on 13/6/2018 but no one appeared for the personal hearing either from the applicant or for the respondent. Further, no request for any other date of hearing was also received in this Office. Before the personal hearing, the dealing hand in this Office has contacted Mr. Dave for working with the applicant to file Vakalatnama, Application for condonation of delay and a copy of OIA and OIO etc. But he informed that they are no more interested to pursue this case. Hence, it is apparent that the applicant is not interested in availing personal hearing and accordingly the revision application is taken up for a decision on the basis of available records.

4. The Government has examined the matter and it is observed at the outset that the revision application has been filed after delay of 15 days and no reason for said delay has been explained in the revision application or separately. In fact as mentioned above, no application of condonation of delay is presented

before the Government even after it was pointed out to the applicant. Therefore, the revision application is time barred in terms of Section 35EE(2) of the Central Excise Act and it is liable for rejection on this ground alone. In addition, the revision application is not found maintainable on merit also as the input invoices in the name of applicant were not produced earlier before the Commissioner (Appeals) as per the OIA and these are not produced even before the Government also. Therefore, there is no basis with the applicant to claim rebate of duty on the basis of invoices issued to others. As regards their reliance on the above referred Order of the Joint Secretary to the Government of India, the Commissioner (Appeals) has correctly observed that it is not applicable in the present proceeding as the applicant not only failed in following the procedural conditions stipulated in Notification No.21/2004 such as filing of declaration and obtaining of approval of input output ratio etc. but also the input invoices are not issued to the applicant. Therefore, the Government does not find any fault in the Order of the Commissioner (Appeals).

5. Accordingly, the revision is rejected.


1.8.18

(R.P.Sharma)

Additional Secretary to the Government of India

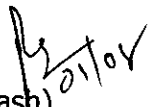
M/s Aglowmed Ltd.
Plot No.50, Raiput
Bhagwanpur, Roorkee
Uttaranchal

G.O.I. Order No. 498/18-Cx dated 01-8-2018

Copy to:-

1. Commissioner of Central Goods & Service Tax, Dehradun, 'E' Block, Nehru Colony, Haridwar Road, Dehradun-248001
2. Commissioner of Customs & Central Excise (Appeals), Meerut-I, Opp. CCS University, Mangal Pandey Nagar, Meerut- 250 005.
3. The Deputy Commissioner, Custom & Central Excise, 'E' Block, Nehru Colony, Haridwar Road, Dehradun-248001, Uttaranchal
4. PA to AS (Revision Application)
5. Guard File

ATTESTED


(Ravi Prakash)
OSD (R.A.)