

REGISTERED

SPEED POST



F.No. 195/189-192/17-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. 499-502/18-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. JAL-EXCUS-001-APP-02/16-17 dated 31.01.2017 passed by the Commissioner of Central Excise (Appeals), Ludhiana.

APPLICANT : M/s. Gardex, Unit IV, Village Bistrampur, Tehsil Kartarpur, District Jalandhar.

RESPONDENT : Commissioner of Central Goods and Service Tax, Jalandhar (Hqrs. at Ludhiana).

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## ORDER

Revision Applications No. 195/189-192/17-RA dated 12.05.2017 are filed by M/s. Gardex, Unit IV, Village Bistrampur, Tehsil Kartarpur, District Jalandhar (hereinafter referred to as the applicant) against the Order in Appeal No.LUD-EXCUS-001-APP-02/16-17 dt. 31.01.2017, passed by the Commissioner of Central Excise (Appeals), Central Excise and Service Tax, Ludhiana.

2. The brief facts leading to the present proceeding are that the applicant had filed rebate claim of Rs.24,920/- under Rule 18 of Central Excise Rules, 2002 read with Notification No. 21/2004-CE (NT) dated 06/09/2004. However, the rebate claims were rejected by the jurisdictional Assistant Commissioner on the ground that the applicant had claimed input rebate in r/o Wood Handle 15" but had exported the final product namely Non Alloy Steel Axe 1.25 LBS fitted with Wooden Handle Hickory 16"; that the raw material Wood Handle 15" for Axe cannot be an input for the manufacture of Non Alloy Steel Axe 1.25 LBS fitted with Wooden Handle Hickory 16" and the applicant did not furnish any declaration with regard to input-output ratio in respect of the exported goods. The applicant's appeal filed before the Commissioner (Appeals) was also rejected accepting the reasons given in the order-in-

original and the consequently the present Revision Application has been filed mainly on the grounds that as per their export order itself the tolerance limit of upto +\_5% was permissible, they had actually used the handles of 15" only even though in the exported goods the length of the handle was mentioned 16", the input-output ratio in respect of handle of 15" was already approved, the input-output ratio was 1:1 only because of which no detailed calculation or verification was required and substantive benefit cannot be denied on account of some procedural lapses on their part.

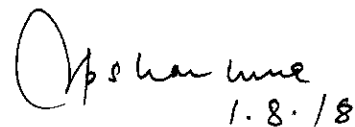
3. Personal Hearing was held on 06/06/2018 which was attended by Shri Ravi Chopra, Advocate, on behalf of the applicant who mainly reiterated the grounds of revision already pleaded in the revision application. However, no one appeared for the respondent.

4. The Government has examined the matter and it is observed that the rebate of duty is denied to the applicant by the lower authorities mainly on the ground that the applicant has used the wooden handle of 16" in the exported goods for which no declaration was filed and the input-output ratio was also not got approved from the Assistant Commissioner prior to export of goods. On the other hand the applicant has claimed that they had used wooden handles of 15" only for which

approval from the Assistant Commissioner had already been obtained and the description of exported goods using the handle of 16" was not changed to keep the description of goods in consonance with the description of goods in the export order and because the export order itself has allowed tolerance of  $\pm 5\%$ . The Government finds that the conclusions of the original and appellate authorities that the applicant has used the wooden handle of 16" only is based on the description of exported goods only and on the assumption that 15" wooden handle could not be used in the exported goods requiring handle of 16". But since the applicant actually manufactured and exported the goods, their claim that they had used the wooden handle of 15" only cannot be discarded in absence of having any contrary evidence. It was all the more probable because as per the export order itself tolerance upto  $\pm 5\%$  was allowed. Further assuming that the wooden handles of 16" were used by the applicant for which the procedure such as filing of declaration with regard to input-output ratio of the exported product was not followed, the Government strongly feel that it is merely a technical lapse and it is condonable in this particular case as the verification of the use of handle in each exported product is easily verifiable even subsequently because there is a one to one use. Above all it cannot be disputed that either wooden handles 15" or 16" were

used in the exported goods and it is not the departmental case that no handle was used in the exported goods. Therefore, Government is convinced that the Commissioner (Appeals) has passed an erroneous order by rejecting the rebate claim of the applicant purely on technical ground overlooking the Government's policy to grant rebate of duty by ignoring the technical pitfalls such as discussed above.

5. Accordingly, the order-in-appeal is set aside and the Revision Application filed by M/s Gardex, Unit IV, Village Bistrampur, Tehsil Kartarpur, District Jalandhar is allowed.

  
1.8.18

(R. P. SHARMA)

ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA

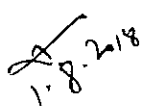
M/s. Gardex,  
Unit-IV,  
Village: Bistrampur,  
Tehsil Kartarpur, District Jalandhar

ORDER NO. <sup>499</sup>502/18-Cx dated 01-8-2018

Copy to:-

1. The Commissioner of Central Goods and Services Tax, Jalandhar(HQRS at Ludhiana), CGST House, "F" Block, Rishi Nagar, Ludhiana – 141 001(Punjab)
2. The Commissioner of Central Excise(Appeals), Central Excise and Service Tax, F Block, Rishi Nagar, Ludhiana.
3. The Assistant Commissioner of Central Goods and Services Tax, Division Jalandhar.
4. P.S. to A.S.
5. Guard File
6. Spare Copy

ATTESTED

  
(Debjit Banerjee)

Sr. Technical Officer