

REGISTERED SPEED POST AD



**GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
DEPARTMENT OF REVENUE**

**Office of the Principal Commissioner RA and  
Ex-Officio Additional Secretary to the Government of India**  
8<sup>th</sup> Floor, World Trade Centre, Cuffe Parade,  
Mumbai- 400 005

F. No. 198/76-77/12-RA/3253

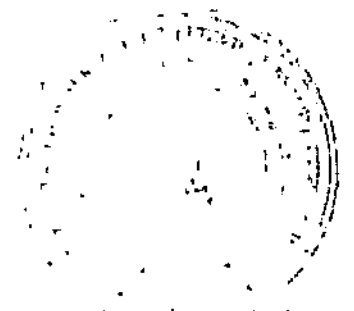
Date of Issue: 31.07.2020

506-507  
ORDER NO. /2020-CX (WZ) /ASRA/MUMBAI DATED 09.06.2020 OF THE  
GOVERNMENT OF INDIA PASSED BY SMT.SEEMA ARORA, PRINCIPAL  
COMMISSIONER & EX-OFFICIO ADDITIONAL SECRETARY TO THE  
GOVERNMENT OF INDIA, UNDER SECTION 35EE OF THE CENTRAL EXCISE  
ACT, 1944.

Applicant : Commissioner of Central Excise, Raigad

Respondent : M/s Vinergy International Pvt. Ltd.  
Shivsagar Estate, A Block,  
1<sup>st</sup> Floor, South Wing,  
Dr. Annie Besant Road,  
Worli, Mumbai 400 018

Subject : Revision Applications filed under Section 35EE of the Central Excise  
Act, 1944 against OIA No. US/57 & 58/RGD/2012 dated 20.01.2012  
passed by the Commissioner(Appeals-II), Central Excise, Mumbai.





The Commissioner(Appeals) vide his OIA No. US/57 & 58/RGD/2012 dated 20.01.2012 ordered that the said appeals be transferred to the call book.

3. The Department found that the OIA No. US/57 & 58/RGD/2012 dated 20.01.2012 was not proper, legal and correct and filed revision applications on the following grounds.

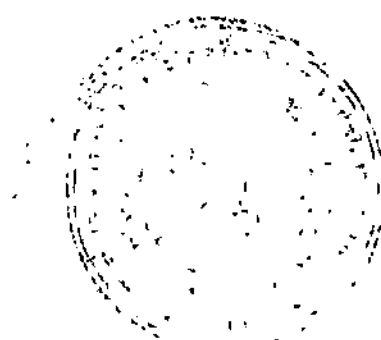
(a) The Department was not the aggrieved party in the appeals filed before the Commissioner(Appeals). The appeals had been filed by the respondent who had filed the rebate claims. However, the Commissioner(Appeals) had without finally disposing off the appeals, the Commissioner(Appeals) passed an appealable OIA No. US/57 & 58/RGD/2012 dated 20.01.2012 to send the cases to the Call Book and has become "functus officio" with reference to the issue.

(b) The impugned order appears to be an administrative order applicable to his own office. However, by passing an appealable order, the Commissioner(Appeals) has erred in not deciding the matters finally.

(c) Reliance was placed upon the decision of the Hon'ble CESTAT, Mumbai in Appeal No. C/697 to 700/11 filed by M/s Parth Industries vs. CC, Goa[2012-TIOL-230-CESTAT-MUM].

4. Personal hearings were granted in the matter on 27.11.2017, 22.05.2018, 10/11.12.2018 & 20.08.2019. Both the applicant Department as well the respondent failed to avail of the opportunity of being heard.

5. Government has carefully gone through the relevant case records and perused the impugned orders-in-original and orders-in-appeal. The issue involved is that the respondent had filed rebate claims which had been rejected by the rebate sanctioning authority. Aggrieved, the respondent had filed appeals before the Commissioner(Appeals). The Commissioner(Appeals) had transferred the appeals to the Call Book on the ground that the Department had filed Writ Petition against an Order



dated 31.05.2011 passed by the Joint Secretary to the Government of India in the same respondents case, on the same issue.

6. However, subsequently as per the directions of the Chief Commissioner, the cases were taken out of the Call Book for decision on merits and were eventually decided vide OIA No. 454 & 455/RGD/2012 dated 13.07.2012. The grounds raised by the Department while filing revision applications no longer exist. As such, the revision applications filed by the Department are infructuous in view of the disposal of the appeals filed by the respondent vide OIA No. 454 & 455/RGD/2012 dated 13.07.2012.

7. The revision applications filed by the Department are dismissed as infructuous.

8. So ordered.

( SEEMA ARORA )

Principal Commissioner & Ex-Officio  
Additional Secretary to Government of India

ORDER No. <sup>506-507</sup> /2020-CX (WZ) /ASRA/Mumbai DATED 09.06.2020 .

To,  
M/s Vinergy International Pvt. Ltd.  
Shivsagar Estate, A Block,  
1<sup>st</sup> Floor, South Wing,  
Dr. Annie Besant Road,  
Worli, Mumbai 400 018

**ATTESTED**

B. LOKANATHA REDDY  
Deputy Commissioner (R.A.)

Copy to:

1. The Commissioner of CGST & CX, Belapur
2. The Commissioner of CGST & CX(Appeals), Raigad
3. Sr. P.S. to AS (RA), Mumbai
4. Guard file
5. Spare Copy

