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GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

8th Floor, World Trade Centre, Centre - I, Cuffe Parade,
Mumbai-400 005

F.No.195/931/13-RA / 3804	Date of Issue	10.08.2020 06.2020
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ORDER NO. ⁵²⁸ /2020-CEX (SZ) / ASRA / MUMBAI/ DATED 02.07.2020
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** : M/s Valli Textiles Mills,
N. Venkateshwarapuram,
N. Subbiahpuram Post, Sattur Taluk – 626205
Virudhunagar Dist., Tamil Nadu.
- Respondent** : The Commissioner of Customs, Madurai.
- Subject** : Revision Application filed, under Section 35EE of
the Central Excise Act, 1944 against the Order-in-
Appeal No. MAD/CEX/000/APP/102/13 dated
27.08.2013 passed by the Commissioner of Central
Excise (Appeals), Madurai.



ORDER

The Revision Application is filed by M/s Valli Textile Mills, N. Ventkateswarapuram, Tamil Nadu (herein after referred to as 'the applicant') against the Order in Appeal No.MAD/CEX/000/APP/102/13 dated 27.08.2013 passed by the Commissioner of Central Excise (Appeals), Madurai, in respect of Order in Original No. 30/2012 dated 02.08.2012 passed by the Assistant Commissioner of Central Excise, Virudhunagar Division, Virudhunagar- 626 001.

2. Brief facts of the case are that the applicant are manufacturers of Cotton / Polyester Yarn, Grey Knitted Fabrics, Grey Knitted Fabric and Lycra / Cotton blended yarn falling under Chapter 52, 55, 60 and 63 of the Central Excise Tariff Act, 1985 and clear them for home consumption as well as for export. The applicant had exported goods under ARE-1 No. 130/2010-11 dated 13.01.2011 without payment of duty and under ARE-1 No. 131/2010-11 dated 14.01.2011 on payment of duty under Cenvat Credit Register Sr. No. 342 dated 13.01.2011 for claiming rebate. The applicant filed rebate claim dated 14.03.2012 for Rs. 4,55,930/- to the Divisional officer under Rule 18 of Central Excise Rules, 2002 read with Notification No. 19/2004-CE(NT) under the ARE-1 No. 131/2010-11 dated 14.01.2011. On scrutiny of the rebate claim, the rebate sanctioning authority found that the goods were exported on 19.01.2011. Hence the time limit of one year from the date of export had expired. Hence the said rebate claim was rejected vide impugned Order in Original.

3. Aggrieved by the said order, the Applicant filed appeals before Commissioner (Appeal) on the ground that they instead of filing ARE-1 No. 131/2010-11, mistakenly filed ARE-1 No. 130/2010-11 on 30.08.2011 which is a clerical error committed by the person concerned working in their factory. Hence the rebate claim filed on 30.08.2011 for ARE-1 No. 131/2010-11 inadvertently enclosing ARE-1 o. 130/2010-11 has to be considered as date of filing of rebate claim which is within one year period from the date of export of goods on 19.01.2011.



4. The Appellate Authority vide impugned order in appeal upheld the Order in Original. The Appellate Authority observed that :

4.1 The applicant had originally filed the rebate claim for ARE-1 No. 130 dated 13.01.2011 on 18.01.2011 but did not discharge the duty liability. Hence, the rebate claim was rejected and returned to the applicant.

4.2 In respect of ARE-1 No. 131 dated 14.01.2011, the applicant had discharged duty liability of Rs. 4,55,930- vide RG-23 Part II Entry No. 342 dated 14.01.2011 but had filed the rebate claim on 14.03.2012 which is well beyond the period of limitation.

4.3 In view of above, the decision of the adjudicating authority is well within the precincts of law.

5. Being aggrieved by the impugned Order in Appeal, the applicant filed the instant Revision Application on following grounds :-

5.1 The rebate claim for export of goods by paying duty under SR. No. 342 dated 14.01.2011 was filed on 30.08.2011 instead of enclosing correct ARE-1 No. 131/2010-11 dated 14.01.2011. The rebate claim was returned by the department pointing out the defects that necessary duty was not debited in assessee's RG-23-A Part II Register vide Sr. No. 342 dated 14.01.2011. On receipt of the return of the rebate claimed, the correct export document ARE-1 No. 131/2010-11 dated 14.01.2011 was enclosed and submitted the rebate claim on 14.03.2012. The original authority had rejected the claim with the observation that the same had been filed for the first time on 14.03.2012. The Applicant stated that the Appellate Authority had failed to consider the submission that the original rebate claim filed on 30.08.2011 has to be considered as date of filing of rebate claim for limitation of time under Section 111B. The Applicant have relied on various case laws in support of their argument. Some of them are as follows :-

- a) Universal Cylinders Vs CCE 2004 (178) ELT 898 (CESTAT)
- b) Collector Vs Paulose and Matthen 2000 (12) ELT A64 (SC)



- c) Commissioner Vs Arya Exports 2005 (192) ELT 89 (Delhi HC)
- d) Duraline India Pvt. Ltd. Vs CCE 2009 (237) ELT 689 (Tri. Mumbai)
- e) CCE Vs Sundaram Industries Ltd. 2011 (263) ELT 615 (Tri-Chennai)
- f) Angiplast Pvt. Ltd. Vs CCE 2010 (19) STR 838 (Tri-Ahmedabad)
- g) IGP Engineers Pvt. Ltd. Vs CC 2008 (232) ELT 481 (Tri-Chennai)

5.2 They have fulfilled the mandatory condition that the goods were exported on payment of duty for claiming rebate.

5.3 The non-compliance of the procedure is condonable.

5.4 Export incentive not to be denied.

6. The department contended the applicant's grounds vide letter dated 24.03.2014 that :-

6.1 The rebate claim filed by the applicant on 30.11.2011 was not for the amount of Rs. 4,55,930/- but for an amount of Rs. 4,25,475/-, in respect of ARE-1 No. 130 dated 13.01.2011.

6.2 The contention that ARE-1 No.130 was enclosed inadvertently, instead of No. 131 is not acceptable.

6.3 The rebate claim was filed in respect of ARE-1 No. 130 dated 13.01.2011, stating that duty of Rs. 4,25,475/- was paid vide debit entry No. 342 dated 13.01.2011 in RG-23 A Pt. II. However, it is not correct.

6.4 On 14.02.2012, the applicant filed a fresh rebate claim in respect of ARE-1 No. 131 dated 14.01.2011 for an amount of Rs. 4,55,930/-.

6.5 The applicant's contention that the rebate claim was filed in time is not correct.

Personal Hearing was held on 04.12.2019, 11.12.2019, and 14.12.2020. No one attended the personal hearing on behalf of the applicant.



or department. Therefore, the instant Revision Applicant is taken up for decision on the basis of documents and submissions available on record.

8. The Government has carefully gone through the relevant case records, the impugned Order-in-Original, Order-in-Appeal and the submissions from both sides.

9. In the instant case, it is found that the applicant had exported two consignments for export. The details are as under :-

Sr. No.	ARE-1 No. / Date	Duty Involved	Date of Export	Date of filing of Rebate Claim	Date of duty payment (Entry No./Date)
1	130/13.01.2011	4,25,475/-	18.01.2011	30.08.2011	342/14.01.2011
2	131/14.01.2011	4,55,930/-		14.03.2012	Under UT-1

10. On perusal of export documents and relevant ARE-1s , it is found that the applicant had filed the rebate claim Rs. 4,25,475/- vide their application for rebate on 30.08.2011 stating that the duty was debited under Cenvat Entry No. 342 dated 13.01.2011. The details in Form 'C' i.e. Application for the rebate of duty and the documents attached thereof for the same undoubtedly establishes that the said claim was filed in respect of rebate of duty paid on export of goods cleared under ARE-1 No. 130/2010-11 dated 13.01.2011 and not in respect of ARE-1 No. 131/2010-11 dated 14.01.2012. Further, it is also ascertained that the self-attested copies of the relevant pages of RG-23 Part II Register submitted by the applicant do not have debit entry in respect of duty amount of Rs. 4,25,475/- in respect of ARE-1 No. 130/2010-11 dated 13.01.2011.

11. In view of above, the Government holds that the adjudicating authority had rightly rejected the said rebate claim for Rs. 4,25,475/- filed by the applicant in respect of the ARE-1 No. 130/2010-11 dated 13.01.2011 since no corresponding debit entry was found in the RG-23 Part-II Register.



12. The Government further finds that the goods under ARE-1 No. 131/2010-11 dated 14.01.2011 involving duty amount of Rs.4,55,930/- were cleared under UT-1 No. 16/2010 dated 29.07.2010 and hence payment of duty on said consignment vide entry No. 342 dated 14.01.2011 is not warranted. As such there is no substance in the argument of applicant that the rebate claim filed on 30.08.2011 was in respect of duty amount of Rs. 4,55,930/- said to have been debited vide entry No. 342 dated 14.01.2011 on export of goods cleared under ARE-1 No.131/2010-11 dated 14.01.2011. Hence, the applicant plea in respect of the same is not acceptable.

13. The Government finds that the various case laws relied upon by the applicant are dissimilar to the issue under consideration and therefore are not applicable in the instant Revision Application.

14. In view of above circumstances, Government finds no infirmity in the impugned Order-in-Appeal and therefore upholds the same.

15. Revision Application is disposed off on above terms.

16. So ordered.

(SEEMA ARORA)
Principal Commissioner & Ex-Officio
Additional Secretary to Government of India.

ORDER No. ⁵²⁸/2020-CEX (SZ) /ASRA/MUMBAI DATED 02.07.2020

To,

M/s Valli Textiles Mills,
N. Venkateshwarapuram,
N. Subbiahpuram Post, Sattur Taluk – 626205
Virudhunagar Dist., Tamil Nadu.

ATTESTED

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

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Copy to:

1. The Commissioner of GST & Central Excise, Madurai Commissionerate, No. 4, Lal Bahadur Sashtri Road, Revenue Buildings, B.B.Kulam, Madurai-625 002.
2. The Commissioner of GST & Central Excise (Appeals), Madurai, No. 4, Lal Bahadur Sashtri Road, Revenue Buildings, B.B.Kulam, Madurai-625 002.
3. The Assistant Commissioner, CGST, Virudhunagar Division, 130/8-1, Katchery Road, Near State Bank of India, Virudhunagar HO, Virudhunagar District - 626 001.
4. Sr. P.S. to AS (RA), Mumbai
5. Guard File.
6. Spare Copy.

