REGISTERED SPEED POST

**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**

8th Floor, World Trade Centre, Cuffe Parade,

Mumbai- 400 005

F. NO. 195/216/13-RA/6837 Date of Issue: 25.11.2021

ORDER NO. 530/2021-CX (WZ) /ASRA/Mumbai DATED 23.11.2021 OF THE GOVERNMENT OF INDIA PASSED BY SHRI SHRAWAN KUMAR, PRINCIPAL COMMISSIONER & EX-OFFICIO ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA, UNDER SECTION 35EE OF THE CENTRAL EXCISE ACT, 1944.

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| Applicant | : | M/s Rameshwar Textile Mills Pvt. Ltd.<br>2nd Floor, Shah Bhavan, 71/73, Old Hanuman Lane,<br>Kalbadevi, Mumbai- 400 002. |
| Respondent | : | Commissioner of Central Excise, Raigad. |
| Subject | : | Revision Application filed under section 35EE of the Central Excise Act, 1944 against the Order-in-Appeal No. BC/434/ RGD(R)/2012-13 dated 29.11.2012 passed by the Commissioner of Central Excise(Appeals), Mumbai-III. |

**ORDER**

This Revision Application has been filed by M/s Rameshwar Textile Mills Pvt. Ltd.(hereinafter referred to as "the applicant") against the Order-in-Appeal No.BC/434/RGD(R)/2012-13 dated 29.11.2012 passed by the Commissioner of Central Excise(Appeals), Mumbai-III.

2. Brief facts of the case are that the applicant, a Manufacturer/merchant exporter, had exported goods and filed Seven rebate claims totally amounting to Rs. 5,88,005/- under Rule 18 of the Central Excise Rules, 2002 read with Notification No.19/2004 CE(NT) dated 6.09.2004 for the duty paid on goods exported. The rebate sanctioning authority vide the Order in Original No. 2564/11-12/DC(Rebate)/Raigad dated 30.03.2012 rejected the entire rebate on the following grounds:

a. *All the processors of the goods have not availed the benefit of Notification No. 30/2004-CE granting full exemption. Such payments cannot be considered as duty in terms of Section 3 of CEA 1944.*

*b. Declaration of Self sealing not given on the face of ARE-I.*

*c. Photostat copies of Shipping bills/ Mate certificates not bearing certificate as 'True copy'.*

*d. Chapter subhead of goods shown in invoices do not tally with that in shipping bills.*

*e. The applicant's name figures in the Alert circular as units who have availed fraudulent Cenvat Credit on invoices issued by Fake/bogus suppliers of grey fabrics. Hence duty payment made on export of goods could not be ascertained to have been effected out of genuine accumulated cenvat credits.*

*f. They have not submitted duty payment certificates from the concerned jurisdictional authority.*

*g. The authenticity of credit availed by the processors on the strength of invoices so received from grey fabrics suppliers and subsequent utilization of such credit for payment of excise duty on exports, was required for which the appellants were given opportunity for submission of documents/ records but none were produced. Hence duty paid by processors out of accumulated cenvat credits is not free from doubt.*

*h. The applicant have lodged the claim with Rebate sanctioning authority*

*to whom the rebate claim filed is not addressed to.*

*i. The quantity of goods in ARE-I and Shipping Bills do not tally creating doubt about the authenticity of the exact qty. of goods exported.*

*j. Bank realization certificate which establishes goods cleared for export has actually been exported is not furnished.*

3. Being aggrieved by the aforesaid Order-in-Original, the applicant filed appeal before the Commissioner of Central Excise(Appeals), Mumbai-III who vide Order-in-Appeal No. BC/434/RGD(R)/2012-13 dated 29.11.2012 (impugned Order) upheld the Order in Original and rejected the appeal filed by the applicant with the following observations:-

- *Adjudicating Authority has, amongst other grounds, rejected the rebate claim on the grounds that the manufacturers have not availed the benefit of Notification No. 30/2004 dt. 9.7.2004. The said notification is a conditional notification and hence, manufacturer is at liberty to avail or not avail the said notification. Rejection of rebate on the this ground is not valid and legal.*
- *One of the major reasons for rejection of the rebate claim is that the processors from whom the goods were purchased have availed Cenvat credit on bogus invoices and hence no duty was paid on the finished goods by the supplier of the goods, from the fraudulently availed Cenvat credit. It is a fact that unless the accumulated credits are genuine, the duty paid there from cannot be termed as actually duty paid. Hence the rejection on this count is valid for the reasons that the name of the said appellants, a manufacturer / exporter, appeared in the Alert Circular No. V/GR-IV/REB/Textile/Alert/10, issued by the Raigad Commissionerate. The said circular was issued for the reasons that the said manufacturer cum exporter had purchased grey fabrics from non-existing units and availed Cenvat credit on bogus invoices.*
- *The reason for rejection on the ground that the Chapter sub-head of goods shown in invoices do not tally with that in shipping bills. The appellants have chosen to remain silent on this count. Such discrepancies prove that the goods cleared for export were not the goods actually exported. The onus is on the appellants to prove that the goods cleared for export were the one which have been exported.*

- *Further, rejection of the rebate claim on the ground that declaration of Self-sealing not given on the face of ARE-1; that Photostat copies of Shipping bills/ Mate certificates not bearing certificate as 'True copy' ; that Chapter subhead of goods shown in invoices do not tally with that in shipping bills; that they have not submitted duty payment*

*certificates from the concerned jurisdictional authority; that the authenticity of credit availed by the processors on the strength of invoices so received from grey fabrics suppliers and subsequent utilization of such credit for payment of excise duty on export, was required for which the appellants were given opportunity for submission of documents/records but none were produced. Hence duty paid by processors out of accumulated cenvat credit is not free from doubt; that the appellant have lodged the claim with Rebate sanctioning authority to whom the rebate claim filed is not addressed to; that the quantity of goods in ARE-1 and Shipping Bills do not tally creating doubt about the authenticity of the exact qty. of goods exported; that Bank realization certificate which establishes goods cleared for export has actually been exported is not furnished are all major deficiencies in the claim. The right to claim follows after the conditions laid down in the notification have been followed scrupulously. These conditions cannot be set aside in the guise of procedural lapses. Further, the Adjudicating Authority has rightly observed that duty payment certificates were issued by the Range Superintendent in the year 2005-06 whereas the Alert circular was issued later. Hence these certificates would not be of any purpose to the appellants in the absence of concrete evidence.*

- *Thus as per the laid down procedure, in the case of Self sealing, self supervision certificate on the ARE-1's, is mandatory. The failure to follow*
  *the condition cannot be termed as procedural or technical lapse. This becomes all the most necessary when the appellants have been provided*
  *with hassle free exports under simplified procedures with a responsibility to ensure genuine exports.The right to claim follows after the conditions laid down in the notification have been followed scrupulously. These conditions cannot be set aside in the guise of procedural lapses.*

- *It is also observed that when the appellants name figure in the Alert circular of the department the appellants ought to have provided evidence to the effect that the duty paid on exports were out of genuine accumulated Cenvat Credits which they have failed to do. However, it cannot be termed as coincidence that the several lapses as pointed above could have occurred simultaneously. Hence the genuineness of the rebate claim is not beyond doubt.*

4. Being aggrieved with the impugned Order, the applicant has filed present revision application mainly on the following grounds :-

4.1 The finding of the Commissioner (Appeals) in para 7 of her order is not relevant to the facts of the present case as the ratio laid down and judgments cited in her order are not applicable to the facts of the present case when the said issue have been decided by Gujarat High Court in the case of Roman Overseas and Prayagraj Dyeing and Printing Mills. Thus, the finding of the Commissioner (Appeals) made in para 7 is not correct finding on the point of law and based on the said findings the rebate claims rejected are not correct and therefore said order is required to set aside in the interest of justice.

4.2 In 4 cases the appellant is merchant exporter and have purchased the goods and have paid duty and exported which is covered by the judgment of the Gujarat High Court in the case of Roman Overseas. Against this order revenue had preferred SLP in Supreme Court which is dismissed. Thus, the issue have attained finality. In view of this, the finding of the Commissioner (Appeals) in para 7 is not applicable at all and therefore the said order is required 0 set aside in the interest of justice allowing appeal with consequential relief.

4.3 There is nothing in the show cause notice dated 30.11.2011 issued by the adjudicating authority that the appellant is under Alert List for the goods exported as indicated in above 7 rebate claims and baseless averments made in the show cause notice that the appellant is in Alert List have no place for the relevant goods exported. It is not the case of the department that the appellant is under Alert List for the above 7 rebate claims. Thus, the finding of the lower authorities without having the base for rejection of the rebate claims is not appreciable and therefore the said orders are required to set aside in the interest of justice.

4.4 There is nothing in the show cause notice dated 30.11.2011 to show that the appellant is party to fraud at manufacturer's end or at input supplier's end for the above 7 rebate claims and therefore the finding of the Commissioner (Appeals) without any corroborative evidences is not sustainable in law. In view of this, the orders passed by the lower authorities are required to set aside allowing the appeal with consequential relief.

4.5 The finding of the Commissioner (Appeals) in para 8 of her order on the point of difference of the description and sub-head of the goods shown in invoices with that in shipping bill to the effect that the appellant have not made any submissions, is not correct as they have taken the point well before the adjudicating authority as well as before the Commissioner (Appeals) that it is a technical nature of the lapse and not mandatory requirement. This point have been decided well by Commissioner (Appeals) in the case of Akshita Exports vide Order-in-Appeal No. US/499/RGD/2012 dated 21.08.2012 wherein it is observed that -

*"The reason for rejection of the claims was difference in the Chapter Heading Number of the Central Excise Tariff declared in the excise invoice of the exported goods and in the corresponding shipping bills. In this respect if is found that the proforma of the Shipping Bills prescribed by the CBEC does not have a column for Central Excise Tariff classification of the exported product. What is required to be mentioned in the Shipping Bills is RITC code number which is not necessarily the same as CET classification. Therefore, there is no requirement of giving CET classification in Shipping Bills. Accordingly, the classification of product in the Excise invoice cannot be held as wrong merely on the basis of RITC code number mentioned on the corresponding Shipping Bills.*

In view of above, the finding of the Commissioner (Appeals) is not correct and the order passed based on this finding is required to set aside in the interest of justice.

4.6 The appellant submits that the rejection of the rebate claims on the grounds that declaration of self sealing not given on the face of ARE-1 etc. is not proper considering the judgment in the case of SRF Polymers Ltd. reported in 2012 (284) EL T 473 (Commr. Appl.) wherein it is held that-

*Denial of rebate on other grounds viz. (i) separate declaration was not filed and permission was not obtained, (ii) self sealing of export consignments was not done, found to be only procedural violations for which rebate cannot be denied - Rule 18 of Central Excise Rules, 2002. [paras 5.1,5.2,5.6, 6].*

In view of above, the rebate claims were not required to be rejected on technical grounds. Hence, orders passed by the lower authorities are not legal and proper and required to set aside in the interest of justice.

4.7 The Commissioner (Appeals) finding in para 9 to the effect that - "It is established principles that the duty paid out of fraudulent availed accumulated credit cannot be termed as duty paid." This view of the Commissioner (Appeals) is absolutely illegal and against the provisions of law. The issue have been finally settled by the High Court of Gujarat in the case of Prayagraj Dyeing and Printing Mills and Roman Overseas wherein the Court have taken the view that the credit can be denied only to the manufacturers and rebate of exporters cannot be denied on the ground that the manufacturer had fraudulently availed accumulated credit for payment of duty as there is no provision in law to reject the rebate claims of the exporter on this ground. In view of this, the finding of the Commissioner (Appeals) in para 8 is contrary to provisions of law and therefore the said findings are required to set aside allowing appeal with consequential relief.

4.8 The finding of the Commissioner (Appeals) as regards to duty payment certificate issued by the Range Superintendent is not correct as

the scenario and evidences never change and remain same forever and it was the duty of the rebate sanctioning authority to examine the documents of processors or the documents pertaining to duty payment certificates submitted by the appellant. Once, duty paid character of the export goods have been established, there is no cause to deny the rebate claims. Thus, the findings of the lower authorities are not correct and required to set aside in the interest of justice allowing the appeal with consequential relief.

4.9 The question of self sealing and self certification have been satisfied by the appellant by producing necessary certificate which have been ignored by the lower authorities. In the case of SRF Polymers Ltd. reported in 2012 (284) ELT 473 (Commr. Appl.), it is held that

> *Denial of rebate on other grounds viz. (i) separate declaration was not filed and permission was not obtained, (ii) self sealing of export consignments was not done, found to be only procedural violations for which rebate cannot be denied - Rule 18 of Central Excise Rules, 2002. [paras 5.1,5.2,5.6, 6].*

In view of above, the said conditions are not mandatory but procedural and the rebate claims cannot be rejected on this ground. In view of this, the orders of the lower authorities are not correct in law and required to set aside in the interest of justice.

4.10 The object and intention for granting rebate claims to foreign exchange earners have been established by the Supreme Court in the case of Baby Marine Exports reported in 2007 (211) ELT 12 (S.C.) wherein it is held that-

> *Interpretation of taxing statutes - Legislative intention - Section 80 HHC of Income Tax Act, 1961 incorporated with* ***the object of granting incentive to foreign exchange earners - Object of the Act must always be kept in view while interpreting the Section*** *- Legislative intent must be the foundation of judicial interpretation. [para 31].*

Applying the ratio of the said judgment, the incentive in the form of duty which have been paid on the goods exported is required to be rebated and therefore the orders of the lower authorities rejecting the rebate claims are against the object and intention of the Government which is required to be set aside in the interest of justice.

4.11 The lower authorities have failed to appreciate that the ratio of Shree Shyam International is squarely applicable to the merchant exporter who have purchased the goods from the manufacturer and have exported the same and applying the ratio of the said judgment, the rebate claims were required to be allowed and therefore order passed by the lower authorities rejecting the rebate claims are not sustainable in law.

4.12 The lower authorities have erred in rejecting the rebate claims on technical deficiency by giving finding that it is mandatory. In this connection, it is submitted that the deficiency memo have been issued in terms Part IV of Chapter 8 of the CBEC's Manual which prescribes that-

> *"The rebate sanctioning authority should point out deficiency, if any, in the claim within fifteen days of lodging the same and ask the exporter to rectify the same within 15 days. All Queries/deficiencies shall be pointed out once collectively and piecemeal queries should be avoided. The claim of rebate of duty on export of goods should be disposed of within a period of two months."*

The above clarification of the CBEC Manual clearly state that the deficiencies are always rectifiable mistake and it cannot be termed as mandatory provisions for granting rebate claims. Thus, the finding of the lower authorities for several deficiencies noticed cannot be termed as mandatory when it is issued in the form of deficiency memo. In view of this, the orders of the lower authorities are not sustainable in law.

4.13 The rebate claims have been filed in September-2005 to March, 2006 whereas the deficiency memo cum show cause notice have been issued on 03.11.2011 which is after a period of five years and not within fifteen days as prescribed in law which is binding to the rebate sanctioning authority in terms of Supreme Court judgment in the case of Paper Products Ltd. reported in 1999 (112) ELT 765 (S.C.). In view of this, the deficiency memo itself is not sustainable in law and it cannot be termed as mandatory after a period of five years of filing of the rebate claims. Thus, the orders of the lower authorities are not correct in law and required to set aside in the interest of justice.

4.14 The lower authorities have erred in not appreciating the legal plea properly that the deficiency memo cum show cause notice dated 03.11.2011 was issued to them for the rebate claims filed during September 2005 to March, 2006 and the general law of limitation for issuance of show cause notice is one year when no time limit have been prescribed for issuance of the show cause notice. In this case, the show cause notice have been issued after a period of five years which is not maintainable in law considering the judgment in the case of Ani Elastic Industries reported in 2008 (222)ELT 340 (Guj.). In view of this, the entire show cause notice is time barred. Consequently the appeal is required to be allowed with consequential relief and it is prayed accordingly.

5. A Personal hearing in this case was held on 20.01.2021 which was attended by Shri K. I. Vyas, Advocate on behalf the applicant. He submitted a written

submission dated 16.01.2021 contending therein that CESTAT(WZB) Ahmedabad vide its Order dated 01.11.2018 has already set aside the Cenvat Credit demand against them, therefore, case of M/s Rainbow is not relevant in their case.

6. Vide written submissions dated 16.01.2021 the applicant enclosed copy of CESTAT (WZB) Ahmedabad's Final Order No. A/12489-12491/2018 dated 01.11.2018 and copy of Duty Payment certificate in respect of ARE-1 No.141/2005-06 dated 08.12.2005 issued by Superintendent of Central Excise, Range-IV, Division-V, Surat-I and contended as under:-

- *In view of the findings of the fact of the Tribunal clearly reveal that no such allegation of fake invoice credit etc. is in existence.*

- *In the present case the manufacturer exporter as well as merchant exporter, the goods are exported under 7 ARE-1s. Out of which 3 pertain to manufacturer exporter and 4 pertain to merchant exporter. Considering the Tribunal judgment in the case of present applicant, there is no other case to deny any credit for the grey fabrics purchased and sent for job-work and also for self processing of the grey fabrics for which also the grey fabrics were purchased and duty was paid. It is therefore submitted that the goods exported under 7 ARE-1s as indicated in OIO No. 2564 dated 30.03.2012 are duty paid goods exported for which Bank Realization Certificate have been received. It was the duty of the revenue to get the duty paid nature of the goods verified internally as the exporter have exported duty paid goods and it is presumed that duty paid nature of the goods have been verified by the revenue before passing any adjudication order. If any adjudication order have been passed without verifying duty paid nature of the goods, then the said order is not maintainable in law and the order approved by the Commissioner (Appeals) also not valid in law. For ready reference, in one of the internal communication, the Deputy Commissioner of Central Excise (Rebate), Khandeshwar, New Panvel, Raigad have got verified duty paid nature of the goods in respect of ARE-1 No. 141/2005-06 dated 08.12.2005 and the Superintendent of Central Excise, Range-IV, Division-V, Surat-I have issued certificate for total payment of Rs. 56,605/-. This is listed at Sr. No. 3 of the adjudication order. In absence of such exercise for other rebate claims, the orders passed by the lower authorities rejecting the rebate claims on technical procedural grounds are not sustainable.*

- *In this case, the goods were sent for job-work to Mis. Mullaji Prints Pvt. Ltd., Surat and M/s. Luthra Dyeing and Printing Mills and the said process house had processed the fabrics and the said fabrics were exported as merchant exporter. In three other cases, the applicant is manufacturer exporter. It is therefore submitted that the allegation of*

*fraudulent credit have no place in the case of Rameshwar Textile Mills Pvt. Ltd. considering Tribunal judgment in the case of applicant itself.*

- *In view of above factual position, it is requested to allow revision application after verifying true facts for availment of the said credit and export thereof as baseless allegations made in deficiency memo and confirmed by adjudicating/appellate authority are factually not correct on merits.*
- *It is therefore prayed to allow revision application after following required procedure of law including verification of duty payment c0ertificate and actual export of the goods which is not in dispute.*

7. Government has carefully gone through the relevant case records available in case files, oral & written submissions and perused the impugned Order-in-Original and Order-in-Appeal and CESTAT (WZB) Ahmedabad's Final Order No. A/12489-12491/2018 dated 01.11.2018.

8. The issue involved is that rebate claims were denied due to the fact that the applicants name figured in an Alert Circular on the premise that they had purchased grey fabrics from non-existent units and availed CENVAT credit on bogus invoices. Besides this ground issues like variation in chapter sub-headings of the goods in the invoices and shipping bills, declaration of self-sealing/self-certification of documents had not been done, duty payment certificate was not submitted, the quantity of goods exported as per the ARE-1 was not tallying with the quantity of goods exported as per the corresponding shipping bill were also raised and deemed to be fatal to the rebate claims.

9. Government observes that the rebate claims filed by the applicant pertain to the period between September 2005 to March 2006. The main premise of the Department for denial of the rebate claims was that the applicant had purchased grey fabrics from non-existent units and availed CENVAT credit on such bogus invoices. In this regard, the applicant has submitted CESTAT Final Order No. A/12489-12491/2018 dated 01.11.2018. The cause of action in that appeal was a show cause notice invoking the extended period issued to the applicant for recovery of CENVAT credit amounting to Rs. 1,05,56,469/- availed on the strength of documents issued by fake/non-existent units. The rebate claims impugned in these proceedings were rejected by the original authority on 30.03.2012 five years after the time during which the exports were effected(September 2005 – March 2006). The CESTAT Order clearly mentions Alert Circulars dated 26.10.2004, 03.05.2005,

22.09.2005 and 06.07.2006 issued by the Commissioner of Central Excise & Customs, Surat-I & therefore it appears that the period between September 2005 to March 2006 could possibly have been covered by the demand which was appealed against before CESTAT. The Bench after discussing the case has finally allowed the appeal filed by the applicant. It would follow from the CESTAT Order and the rejection of the Departments case that the CENVAT credits availed by the applicant were legitimately admissible to them and cannot now be disputed. In the result the rejection of the rebate claims filed by the applicant on the basis that the duty paid out of CENVAT credits which were alleged to be inadmissible cannot sustain as these credits have now been held to be rightly admissible to the applicant.

10.1 Insofar as the issues like variation in chapter sub-headings of goods in invoices and shipping bills, declaration of self-sealing/self-certification of documents not have been done, duty payment certificate not being submitted and quantity of goods as per ARE-1 not tallying with quantity of goods as per shipping bill are concerned, Government finds that these are procedural/technical lapses. The chapter sub-headings in the central excise tariff and the customs tariff were not perfectly aligned and hence they could be disparate. Moreover, the shipping bills do not contain any column for central excise tariff headings. With regard to the difference in quantity of goods between the ARE-1 and shipping bill, it must be borne in mind that a shipping bill may pertain to multiple consignments and may not necessarily detail goods consigned under a particular ARE-1. The Notifications for grant of rebate do not prescribe filing of duty payment certificate by the applicant. The onus for verification of duty payment lies upon the Department and not upon the claimant. Government observes that Mate Receipts and Bills of lading have been filed alongwith the revision application. The applicant has enclosed the BRC's in respect of most of the claims. The applicant has substantially complied with the requirements for submission of documents. It is observed that the documents are sufficient to corroborate export of duty paid goods.

10.2 Government finds that the decision In Re : Neptunus Power Plant Services Pvt. Ltd.[2015(321)ELT 160(GOI)] is applicable to the facts of the present case. Para 12 of the said decision is reproduced hereinafter.

> "12. In this regard, Govt. further observes that rebate/drawback etc. are export oriented schemes. A merely technical interpretation of procedures etc. is to be best avoided if the substantive fact of export having been made is not in doubt, a liberal interpretation is to be given in case of any technical lapse. In *Suksha International v. UOI – 1989(39)ELT*

*503(S.C.)*, the Hon'ble Supreme Court has observed that, an interpretation unduly restricting the scope of beneficial provision is to be avoided so that it may not take away with one hand what the policy gives with the other. In the *Union of India v. A. V. Narasimhalu – 1983(13)ELT 1534(S.C.)*, the Apex Court also observed that the administrative authorities should instead of relying on technicalities, act in a manner consistent with the broader concept of justice. Similar observation was made by the Apex Court in the *Formica India v. Collector of Central Excise – 1995(77)ELT 511(S.C.)* in observing that once a view is taken that the party would have been entitled to the benefit of the notification had they met with the requirement of the concerned rule, the proper course was to permit them to do so rather than denying to them the benefit on the technical grounds that the time when they could have done so, had elapsed. While drawing a distinction between a procedural condition of a technical nature and a substantive condition in interpreting statute similar view was also propounded by the Apex Court in *Mangalore Chemicals and Fertilizers Ltd. v. Dy. Commissioner – 1991(55)ELT 437(S.C.)*. In fact, as regards rebate specifically, it is now a title law that the procedural infraction of Notifications, circulars, etc., are to be condoned if exports have really taken place, and the law is settled now that substantial benefit cannot be denied for procedural lapses. Procedure has been prescribed to facilitate verification of substantive requirement. The core aspect or fundamental requirement for rebate is its manufacture and subsequent export. As long as this requirement is met other procedural deviations can be condoned. This view of condoning procedural infractions in favour of actual export having been established has been taken by Tribunal/Govt. of India in a catena of orders, including *Birla VXL Ltd. – 1998(99)ELT 387(Tri.), Alpha Garments – 1996(86)ELT 600(Tri.), T. I. Cycles – 1993(66)ELT 497(Tri.), Atma Tube Products – 1998(103)ELT 270(Tri.), Creative Mobus – 2003(58)RLT 111(GOI), Ikea Trading India Ltd. – 2003(157)ELT 359(GOI)* and a host of other decisions on this issue."

10.3 It would be inferable from the decision cited above that rebate cannot be denied by resorting to technical interpretation of procedures. Procedural lapses are to be condoned if exported goods are co-relatable with the goods cleared from the factory. It would therefore be in the interest of justice to remand back the matter to the original authority for fresh decision and especially so in the light of the CESTAT Order dated 01.11.2018 in respect of the applicant. The applicant can lead evidence to correlate exported goods with the goods cleared under central excise documents. Rebate would be admissible if the goods cleared from the factory can be correlated with the goods which have been exported. The applicant may also produce BRC's in respect of all seven ARE-1's before the adjudicating authority.

11. Government therefore modifies the OIA No. BC/434/RGD(R)/2012-13 dated 29.11.2012 passed by the Commissioner(Appeals) by directing the original authority to re-examine the rebate claim for admissibility on the basis of the documents submitted by the applicant. The applicant is directed to co-operate with the adjudicating authority in the remand proceedings. The remand proceedings may be completed within eight weeks of receipt of this order.

12. The Revision Application is disposed off in the above terms.

23/11/21

(SHRAWAN KUMAR)
Principal Commissioner & Ex-Officio
Additional Secretary to Government of India

ORDER No. 230 /2021-CX (WZ) /ASRA/Mumbai DATED 23.11.2021

To,
M/s Rameshwar Textile Mills Pvt. Ltd.,
2nd Floor, Shah Bhavan, 71/73,
Old Hanuman Lane, Kalbadevi,
Mumbai-400002.

Copy to:

1. The Commissioner of CGST, Belapur CGO Complex, Sector 10, C.B.D. Belapur, Navi Mumbai -400 614.
2. The Commissioner (Appeals) of Central Goods & Service Tax, Raigad, 5th Floor, CGO Complex, Belapur, Navi Mumbai -400 614.
3. The Deputy / Assistant Commissioner (Rebate), Belapur, CGO Complex, Sector 10, C.B.D. Belapur, Navi Mumbai -400 614
4. Sr. P.S. to AS (RA), Mumbai
5. Guard file.