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F.No.195/168-A/15-RA, 195/301/17-RA
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. 55-56/18-Cx dated 5-2-18 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 orders-in-appeal No.25(SLM) CE/JPR/2015 dated 04.02.2015 and 172(SM)CE/JPR/2017 dated 29.08.2017 passed by the Commissioner (Appeals) Jaipur

Applicant : M/s Ambey Laboratories Pvt. Ltd., Alwar

Respondent : Commissioner of Central Excise & Service Tax, Alwar

ORDER

Two revision applications 195/168-A/15-RA dated 4.6.15 and 195/301/17-RA dated 4.12.17 are filed by Ambey Laboratories Pvt. Ltd., Alwar (hereinafter referred to as the applicant) against the Orders-in-Appeal No.25(SLM) CE/JPR/2015 dated 04.02.2015 and 172(SM)CE/JPR/2017 dated 29.08.2017, passed by the Commissioner of Central Excise (Appeals), Jaipur.

2. The brief facts leading to the above two revision applications are that the applicant had claimed rebate of duty against export of goods and the same was sanctioned by the jurisdictional Assistant Commissioner to the applicant. However, a departmental appeal was filed against the said Order and it was allowed by the Commissioner (Appeals) setting aside the Order of the Assistant Commissioner. The applicant has filed revision application on 4.6.15 against the Commissioner (Appeals)'s Order dated 4.2.15. In pursuance to above Order of the Commissioner (Appeals), recovery of refunded amount was also confirmed by the Assistant Commissioner against which the appeal filed by the applicant is also rejected. Hence, the second revision application is filed on 4.12.17 by the applicant against the Commissioner (Appeals)'s Order dated 6.9.17.

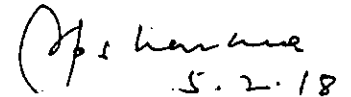
3. The revision applications are filed mainly on the grounds that the Commissioner (Appeals) has committed an error by concluding non-export of goods merely on the basis of two different sub-headings mentioned in the export documents and by ignoring other evidences such as the goods were stuffed and sealed in presence of central excise officers who did not find any discrepancy, they have only claimed rebate of duty against the actual duty paid by them as per ARE-1 and excise invoices and the foreign remittances have been received against the export of goods.

4. Personal hearing was held in these cases on 9.1.18 and it was attended by Shri B.S.Reddy, Advocate, for the applicant, who reiterated the grounds of revision already pleaded in their applications. However, no one appeared for the respondent.

5. On examination of the OIOs, the Commissioner (Appeals)'s orders and other related documents, the Government finds that rebate of duty has been rejected and

recovery of rebate of duty has been ordered solely on the ground that the related AREs, shipping bills had different chapter headings and as a result the export of goods is not established. While the applicant has not denied that two different chapter headings were given in ARE-1s and shipping bills, they have pleaded that it has happened due to unintended error and rebate of duty cannot be denied for this reason alone. The Government also finds that even if the ARE-1 and shipping bills have two different sub-headings for the exported goods in both the documents, the description of the goods is 2, 4D Sodium salt 80 PCT WP (Herbicide) in all the export documents. Moreover, the goods mentioned in all the ARE-1s were cleared for export under the supervision of the Range Officers, the Custom Officer has certified the export of goods and sale proceeds have been received by the applicant from the foreign buyer. Even the rate of duty under sub-heading 29152990 and 38089320, which are mentioned in shipping bills and ARE-1s respectively for classification of the exported goods, is also the same and the rebate of duty is undoubtedly claimed for the amount of central excise duty actually paid by the applicant in respect of the exported goods. Further, if the applicant has misclassified the exported goods in shipping bills under sub-heading 291522990 for availing higher amount of drawback, the action should have been initiated for recovery of the undue drawback amount paid to them. But avilment of wrong drawback amount by the applicant cannot be made a basis for denial of rebate of duty claimed against payment of duty on the exported goods. When all these facts are considered impartially, the Government does not have any doubt in this case and agrees with the applicant that above named goods 2,4D Sodium Salt 80 PCT WP has been exported on payment of duty and the applicant is eligible for rebate of duty.

6. Accordingly, the Commissioner (Appeals)'s Orders are set aside and the revision applications are allowed.


5.2.18

(R.P.Sharma)

Additional Secretary to the Government of India

M/s Ambey Laboratories Pvt. Ltd.,
SP 1-5, RIICO Industrial Area,
Satartala, Tehsil-Behror,
Distt: Alwar-301701
Rajasthan

Order No. ~~55-56~~/18-Cx dated ~~5-2-2018~~

Copy to:

1. Commissioner of Central Excise & Service Tax, Alwar, "A" Block, Surya Nagar, Alwar-301001
2. Commissioner of Central Excise & Customs (Appeals), Jaipur, New Central Revenue Building, "C" Scheme, Jaipur-302505
3. The Assistant Commissioner, Central Excise, Division-A, Block Surya Nagar, Alwar-301001
- ✓ 4. PA to AS(RA)
5. Guard File.
6. Spare Copy

ATTESTED

(Ravi Prakash)
OSD (Revision Application)

Attested
NDW
5-2-18

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