

REGISTERED
SPEED POST



F.No.195/185-186/2014-RA
F.No.195/187/2014-RA
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

14, HUDCO VISHALA BLDG., B WING
6th FLOOR, BHICAJI CAMA PLACE,
NEW DELHI-110 066

Date of Issue.....

Order No. 57-58/18-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.28-29(V)CE/JPR-I/2014 dated 26.02.2014 & No.20(V)CE/JPR-I/2014 dated 19.02.2014 passed by the Commissioner (Appeals) Jaipur-I

Applicant : M/s Indo Alusys Industries Ltd., Bhiwadi

Respondent : Commissioner of Central Excise, Jaipur-I

ORDER

Two revision applications No.195/185-186/2014-RA & F.No.195/187/2014-RA have been filed by M/s Indo Alusys Industries Ltd., Bhiwadi (hereinafter referred to as the applicant) against orders-in-appeal No.28-29(VC)CE/JPR-I/2014 dated 26.02.2014 & No.20(VC)CE/JPR-I/2014 dated 19.02.2014, passed by the Commissioner of Central Excise (Appeals), Jaipur-I, whereby the applicant's appeal filed against the order of the Assistant Commissioner, Bhiwadi has been rejected.

2. The brief facts leading to the present proceeding before the Government are that the applicant claimed rebate of duty for an amount of Rs.6111607/- on 10.7.08 under Rule 18 of the Central Excise Rules 2002 for export of goods. However, the rebate claims were rejected by the Assistant Commissioner vide his order dated 25.1.10. Their appeal before the Commissioner (Appeals) was also rejected vide OIA dated 1.11.10. The applicant filed the revision application to the Government of India and the Joint Secretary (RA), vide his order dated 12.1.13, remanded the matter to the original authority for deciding the rebate claims by examining whether the supply of the goods by the applicant in SEZ was in terms of Rule 10 of SEZ Rules and a direction was given to sanction the rebate claim to the applicant if it was so. In compliance of the said order, the Assistant Commissioner, vide his order dated 16.4.13, sanctioned the rebate claim for the full amount but no interest was paid to the applicant for delayed grant of the rebate claim. Their appeal before the Commissioner (Appeals) is rejected vide OIA dated 12.3.14 and consequently the applicant has filed the above referred revision applications.

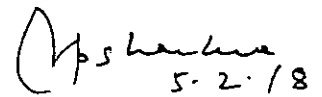
3. The revision applications are filed mainly on the ground that they had filed rebate claim on 10.7.08 and the Commissioner (Appeals) has committed an error by denying interest beyond 3 months from the filing of the rebate claim on 10.7.08 and no refund claim was filed by them on 23.1.13 after Government of India's Order dated 22.1.13 as is held by the Commissioner (Appeals) in his order.

4. A personal hearing was held in this case on 05.1.18 and the same was attended by Shri Ujjwal Sharma, C.A., for the applicant and he reiterated the grounds of revision already advanced in their revision application.

5. On examination of all the relevant case records, it is manifest that the rebate claim was filed by the applicant on 10.7.08 and since then two rounds of litigation have continued relating to the said rebate claim uptill now. Earlier order dated 12.1.13 issued by the Joint-Secretary to the Government of India undoubtedly was in-relation to the applicant's rebate claim filed on 10.7.08 and the same has been sanctioned thereafter by the Assistant Commissioner of the Division. Therefore, the sanctioning authority has certainly delayed grant of refund to the applicant in this matter and there is no basis in saying that the refund claim was filed by the applicant on 23.1.13 only. No Legitimate basis for drawing this conclusion has been disclosed in the order of the Assistant Commissioner or even in the order of the Commissioner (Appeals).

6. Section 11 BB unambiguously provide that interest is payable in the event of non-refunding of duty within 3 months from the date of receipt of application and it is further clarified in Explanation-E in Section 11BB that where any order of refund is made by Appellate Authorities as mentioned therein, order passed by Appellate Authority should be deemed to be an order passed under sub-section (2) of the Section 11B. Since the rebate of duty in this case has been granted undoubtedly beyond 3 months of the rebate claim filed by the applicant in this case, interest is payable to the applicant for the period beyond 3 months of filing of rebate claim on 10.7.08 as is mandated under Section 11BB Central Excise Act, 1944.

7. Accordingly, Government allows the revision applications filed by M/s Indo Alusys Industries Ltd., Bhiwadi, and the Commissioner (Appeals)'s order is modified to the extent as discussed above.


5-2-18

(R.P.Sharma)

Additional Secretary to the Government of India

M/s Indo Alusys Industries Ltd.,
SP-2/233, RIICO Industrial Area,
Bhiwadi-301019

Order No. 57-59/18-Cx dated 5-2-2018

Copy to:

1. Commissioner of Central Excise, Jaipur-I, New Central Revenue Building, Statue Circle, "C" Scheme, Jaipur-302505
2. Commissioner of Central Excise (Appeals), Jaipur-I, New Central Revenue Building, "C" Scheme, Jaipur-302505
3. The Assistant Commissioner, Central Excise Division, Bhiwadi
- ✓ 4. PA to AS(RA)
5. Guard File.
6. Spare Copy

ATTESTED

(Ravi Prakash)
OSD (Revision Application)

Attested
NDW
5/2/18

(निर्मला देवी / NIRMALA DEVI)
अनुभाग अधिकारी / Section Officer
वित्त मंत्रालय (राजस्व विभाग)
Ministry of Finance (Deptt. of Rev.)
भारत सरकार / Govt. of India
नई दिल्ली / New Delhi