

REGISTERED  
SPEED POST



F.No. 198/92-125/12-RA  
GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(DEPARTMENT OF REVENUE)

14, HUDCO VISHALA BLDG., B WING  
6<sup>th</sup> FLOOR, BHIKAJI CAMA PLACE,  
NEW DELHI-110 066

Date of Issue.....

ORDER NO. 60-93/18-CX dated 5-2-2018 OF THE GOVERNMENT  
OF INDIA, PASSED BY SHRI RAJPAL SHARMA, ADDITIONAL SECRETARY  
TO THE GOVERNMENT OF INDIA, UNDER SECTION 35EE OF THE  
CENTRAL EXCISE ACT, 1944.

SUBJECT : Revision Application filed, under section 35EE of  
the Central Excise Act 1944 against the Order-in-  
Appeal No. 26-59/CE/APPL/CHD-II/2012 dated  
30.01.2012 passed by the Commissioner, Central  
Excise, Chandigarh II.

APPLICANT : Commissioner, Central Excise, Chandigarh II

RESPONDENT : M/s Surya Pharmaceuticals Ltd.,

\*\*\*\*\*

## ORDER

A Revision Application No. 198/92-125/12-RA dated 02.05.2012 is filed by the Commissioner of Central Excise, Chandigarh II (hereinafter referred to as the applicant) against Order in Appeals No. 26-59/CE/APPL/CHD-II/2012 dated 30.01.2012, issued by the Commissioner, Central Excise (Chandigarh II) whereby the departmental appeal against the order of the Assistant Commissioner has been allowed partly.

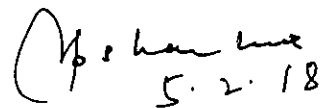
2. The Revision Application has been filed mainly on the ground that earlier department had filed appeals before the Commissioner (Appeals) on two grounds that the respondent M/s Surya Pharmaceuticals Ltd., Rajpura, was not required to pay any duty since absolute exemption from Central Excise duty was provided under Notification No. 4/2006 Central Excise dated 01.03.2006 in respect of quinine exported by the respondent and rebate of duty could not be given even otherwise as arrears of revenue was pending for recovery against the said respondent for which the Assistant Commissioner was required to adjust the rebate of duty.

3. Personal hearings were earlier offered on 30.08.2017 and thereafter on 18.12.2017 but neither the applicant nor the respondent appeared for the hearing and even no request for any other date for hearing is also requested from which it is implied that they are not interested in availing hearing. Hence the Revision Applications are taken up for decision on the basis of available case records.

4. On examination of the copy of the appeal dated 03.02.2011 filed by the Department and Commissioner (Appeals)'s order, it is clearly noticed that the department had challenged the Deputy Commissioner's order in original on

the above stated two grounds and mainly for the reason that the respondent was not required to pay any duty at all on the exported quinine as per notification No. 4/2006 and thereby rebate of duty was not admissible to the respondent against the amount erroneously paid from CENVAT Credit account as duty of excise. While the Commissioner (Appeals) has allowed the departmental appeal on the second ground of appeal holding that the Deputy Commissioner was required to recover the arrears of revenue by adjusting the rebate of duty amount, he has completely overlooked the departmental appeal on the above stated first ground which was that the rebate of duty against wrongly paid amount was not admissible at all. Accordingly, the order of the Commissioner (Appeals) is not found complete and accordingly merit is found in the Revision Application filed by the applicant. Hence the order of the Commissioner (Appeals) is set aside and the matter is remanded back to the jurisdictional Commissioner of Central Excise(Appeals), Chandigarh, with the direction to consider afresh the admissibility of rebate of duty of the respondent in the light of the above mentioned notification No. 4/2006 and section 5A (1A) of the Central Excise Act 1944 which provides that a manufacturer of excisable goods shall not pay the duty of excise where exemption from the whole of the duty of excise has been granted absolutely. It is needless to emphasise here that proper opportunity will be provided to both parties before deciding this case.

5. Accordingly the Revision Application is allowed in terms of above discussion and directions.

  
5.2.18

(R. P. SHARMA)

ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA

The Commissioner of Central Excise,  
Ludhiana, Central Excise House, 'F' Block,  
Rishi Nagar, Ludhiana -141 001 (Punjab)

ORDER NO. 60-93/18-CX dated 5-2-2018

Copy to:-

1. M/s Surya Pharmaceuticals Ltd., Village Bēnur, Tahsil Rajpura, Distt. Patiala (Pb.) 140 601
2. <sup>e</sup> Commissioner (Appeals) Central Excise, Chandigarh-II, C.R. Building, Plot No. 19, Sector-17C, Chandigarh.
3. Assistant Commissioner, Central Excise Division, 21, Nihal Bagh, Baradari Garden, Patiala Punjab.
4. PS to AS(RA)
- ✓ 5. Guard File.
6. *Spare Copy*

ATTESTED

*5.2.2018*  
(Debjit Banerjee)

STO (REVISION APPLICATION)