

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, Cuff Parade,
Mumbai- 400 005**

F NO. 195/274/14-RA / 5667

Date of Issue: 20.09.2020

ORDER NO. 625 /2020-CX (WZ) /ASRA/MUMBAI DATED 14.09.2020 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 Presidency Exports,
B-22, Basement, Rushabh Textile Market,
Ring Road, Surat - 395 002.

Respondent : Commissioner of Central Excise, Mumbai-I.

Subject : Revision Application filed under section 35 EE of the Central Excise Act,
1944 against the Order-in-Appeal No. PD/73/M-I/2014 dated
30.05.2014 passed by Commissioner (Appeals) Central Excise,
Mumbai-I.

ORDER

This revision application is filed by the applicant M/s Presidency Exports, Surat against the Orders-in-Appeal No. PD/73/M-I/2004 dated 30.05.2014 passed by Commissioner (Appeals) Central Excise, Mumbai-I.

2. Brief facts of the case are that the applicant, M/s Presidency Exports, Surat had filed following rebate claims in respect of duty paid on goods manufactured by M/s Jay Bharat Dyeing and Printing (P) Ltd., pertaining to Division II of Surat Commissionerate and exported through Mumbai Port under ARE-1s. The Assistant Commissioner (Rebate), Central Excise, Mumbai-I Commissionerate, vide Order in Original No. 235/R/05 dated 24.11.2005 sanctioned all the rebate claims on basis of his findings that as the certification was issued by the customs officers on the original and duplicate copies of the ARE-1s the goods were actually exported, and also that they were of duty paid character.

No. of Rebate claims & Date of filing these claims	Amount of Rebate Claimed	Order in Original No. and Date	Amount of Rebate Sanctioned	Amount of Rebate rejected/set aside vide Order in Appeal No. and date
1	2	3	4	5
8 Rebate Claims	Rs. 8,29,222/-	28/M-I/2013-14 dated 31.01.2014	Rs. 8,29,222/-	Rs. 8,29,222/- vide OIA No PD/73/M-I/2014 dated 30.05.2014

The Order in Original No. 235/R/05 dated 24.11.2005 was reviewed by the Jurisdictional Commissioner and an appeal against the sanction order was filed with the Commissioner (Appeals), Central Excise, Mumbai - I. Since rebate had already been disbursed, a show cause cum demand notice was issued to the applicant for recovery of . The appeal filed by the department with the Commissioner (Appeals), Mumbai - I was decided by him vide Order-in-Appeal No. M-I/RKS/104/2011 dated 18.03.2011 where he set aside the order passed by the Assistant Commissioner (Rebate) and allowed appeal filed by the department.

3. The demand for rebate sanctioned erroneously was confirmed by the Additional Commissioner vide Order in Original No. 28/M-I/2013-14 dated 31.01.2014. Being

aggrieved by the said order-in-original, the applicant filed appeal before Commissioner (Appeals), Central Excise, Mumbai-I. The Appellate Authority vide impugned order in decided the case in favour of department by upholding the Orders in Original to the extent of confirmation of demand of erroneously sanctioned rebate amount shown at Column No. 4 of the Table above.

4. Being aggrieved by the impugned order-in-appeal, the applicant filed these revision applications under Section 35EE of Central Excise Act, 1944 on the following similar grounds:

4.1 The applicant had filed Revision Application No. 195/534/11 before the Revision Authority on the grounds taken therein. The said Revision Application is pending for decision.

4.2 The adjudicating authority ought to have accepted the request to keep the SCN pending till Revision Application is decided.

5. Personal hearing in this case was scheduled on 16.01.2020 and 22.01.2020. Shri G.B. Yadav, Advocate attended the hearing on 22.01.2020 and re-iterated the submission made in the case. The Government proceeds to decide the case on merits on the basis of available records.

6. Government has carefully gone through the relevant case records available in case files, perused the impugned Orders-in-Original and Orders-in-Appeal.

7. The Government observes that the Revision Authority vide its order No. 286-287/2020-CX(WZ)/ASRA/MUMBAI dated 02.03.2020 has dismissed the revision application No. 195/534 & 535/11-RA filed by the applicant against Order in Appeal No. M-I/RKS/104/11 dated 18.03.2011 passed by the Commissioner (Appeals), Central Excise, Mumbai-I. The Appellate Authority vide Order in Appeal No. M-I/RKS/104/11 dated 18.03.2011 had rejected amount of rebate sanctioned to applicant by the rebate sanctioning authority.

8. The Government finds that the proceedings under both Revision Applications i.e 195/534 & 535/11-RA and 19/274/14-RA have originated from the inadmissible rebate claim of Rs.8,29,222/- sanctioned to the applicant by rebate sanctioning authority. The impugned rebate claims have already been rejected by this Revision Authority vide order No. 287/2020-CX(WZ)/ASRA/MUMBAI dated 02.03.2020. In


conformity to the same, the Government upholds the recovery under Section 11A of Central Excise Act, 1944 in respect of inadmissible rebate claims sanctioned to the applicant. The case has been discussed elaborately with findings thereof by this Revision Authority while passing the Order dated 02.03.2020.

9. In view of the foregoing discussion, Government holds that the applicant are not eligible for rebate of duty in the instant case and the demand of inadmissible rebate of Rs. 8,29,222/- sanctioned by the original authority in the matter is just and proper.

10. In view of the foregoing discussion, Government upholds Orders-in-Appeal No. PD/73/M-I/2014 dated 30.05.2014 passed by Commissioner (Appeals) Central Excise, Mumbai-I.

11. The Revision Application is rejected accordingly.

12. So, ordered.


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

ORDER No. ⁶²⁵/2020-CX (WZ) /ASRA/Mumbai Dated 14.09.2020.

To,
M/s. Presidency Export.
B-22, Basement, Rushabh Textile Tower,
Ring Road, Surat-395002, Gujarat.

Copy to:

1. Commissioner of CGST & CX, Mumbai South, 13th Floor, Air India Building, Nariman Point, Mumbai 400 021.
2. The Commissioner CGST & CX (Appeals-I), 9th Floor, Piramal Chambers, Jijibhouy Lane, Lalbaug, Parel, Mumbai 400 012.
3. The Assistant Commissioner of CGST & CX, Divison -II, Mumbai South, 15th Floor, Air India Building, Nariman Point, Mumbai 400 021.
4. Sr. P.S. to AS (RA), Mumbai
5. Guard file
- 6.. Spare Copy.