F.No.195/10/15-RA
F.No.195/11/15-RA

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GOVERNMENT OF INDIA
MINISTRY OF FINANACE
DEPARTMENT OF REVENUE

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Mumbai- 400 005

F.No.195/10/15-RA /2683
F.No.195/11/15-RA

Date of Issue: 27.06.2022

ORDER NO. 646-647 /2022-CX-(SZ)/ASRA/MUMBAI DATED 23.06.2022 OF THE GOVERNMENT OF INDIA PASSED BY SHRI SHRAWAN KUMAR, PRINCIPAL COMMISSIONER & EX-OFFICIO ADDITIONAL SECRETARY TO THE OF INDIA, UNDER SECTION 35EE OF THE CENTRAL EXCISE ACT, 1944.

Applicants : M/s Grundfos Pumps India Pvt. Ltd.
118, Old Mahabalipuram Road,
Thoraipakkam, Chennai – 600 097.

Respondents : Commissioner of CGST, Chennai South.

Subject : Revision Applications filed under Section 35EE of the Central Excise Act, 1944 against the Orders-in-Appeal Nos. 6 and 7/2014 (M-IV) dated 03.11.2014 passed by the Commissioner (Appeals -II), Central Excise, Chennai.

ORDER

These Revision Applications are filed by M/s Grundfos Pumps India Pvt. Ltd. 118, Old Mahabalipuram Road, Thoraipakkam, Chennai – 600 097 (hereinafter referred to as "the applicant") against the Orders-in-Appeal Nos. 6 and 7/2014 (M-IV) dated 03.11.2014 passed by the Commissioner (Appeals -II), Central Excise, Chennai

2. The issue in brief is that the applicant is engaged in manufacturing of 'Submersible Pumps' falling under Chapter 84 of the Central Excise Tariff Act, 1985. The applicant had filed rebate claims under Rule 18 of the Central Excise Rules, 2002 in respect of the duty paid on the goods cleared to SEZ located at various places in India. The Original Authority, after following due process of law, partly sanctioned rebate and rejected the amounts mentioned in the table below :-

Sr. No.	**OIO No. / Date**	**Rebate Sanctioned**	**Rebate Rejected**	**Reasons for rejection**
1	2	3	4	5
1.	17/2013 dt, 02.04.2013	1,97,226/-	35944/-	Original / Duplicate copies of ARE-1 not having endorsement of SEZ authorities and exported inputs as such by expunging the credit availed on such goods which does not satisfy explanation (A) of Section 11B
			16,964/-	Invoices raised on third party
			5,857/-	Invoices raised on third party
			36,534/-	Duplicate copy of ARE 1 not signed.
2	41/2013 dt 03.04.2013	58,574/-	84,753/-	Invoices raised on third party
			1,927/-	Invoices raised on third party
			2,365/-	Invoices raised on third party
			2,748/-	Invoices raised on third party
			24,930/-	Invoices raised on third party

			44,535/-	Conditions under Sec 11B read with clause 8.3 & 8.4 of CBEC Supplementary instructions not followed. (Duplicate copy of ARE 1 not submitted)
			1,14,296/-	Invoices raised on third party
			3,468/-	Invoices raised on third party
			3,021/-	Invoices raised on third party

3. Being aggrieved, the applicant filed appeals before Commissioner (Appeals-II), Central Excise, Chennai against the impugned Orders-in-Original. The Appellate Authority vide common Orders-in-Appeal Nos. 06 and 07/2014 (M-IV) dated 03.11.2014 rejected the appeals on merits. The Appellate Authority while passing the order made the following observations:-

i) As per sub clause 8.3 to clause 8 of CBEC's Supplementary Instructions, it is clear that export made is evident only when the original copy of ARE-1 and duplicate copy of ARE 1 duly certified by customs and the triplicate copy of ARE 1 certified by the Range Superintendent for proving the duty paid character of the goods are produced. And the non availability of the endorsement by the SEZ on the original/duplicate copies of the ARE 1 cannot be treated as minor/technical lapses.

ii) That the applicants contention that they had procured orders through dealers and hence the invoices were in the name of dealers but since the goods were meant for SEZ, the transaction was routed through the dealers for commercial and trade reasons is not tenable as Rule 11 states that the invoices should be in the name of the consignee i.e SEZ and invoices raised on third party cannot be treated as invoice under Rule 11 of the Central Excise Rules 2002.

(iii) It is crystal clear from bare reading of Rule 18 that grant of rebate of duty paid is available on excisable goods or duty paid on materials used in manufacture or processing of such gods. i.e. on raw material. Rule 18 would apply only when goods manufactured in a factory are exported and not when inputs on which credit is taken, are exported. Therefore, denial of rebate by the department on this account is also correct.

4. Being aggrieved by the impugned Orders-in-Appeal, the applicant filed the instant Revision Applications on following common grounds :-

4.1 That though the rebate claim in respect of two clearances to SEZ in respect of OIO No 17/2013 dated 03.04.2013 and eight clearances in respect of OIO No. 41/2013 dated 03.04.2013 has been rejected for the reason that invoices were raised by them on third parties, the original authority has clearly indicated the date of receipt of goods supplied by applicant in the SEZ unit and thus there is no dispute of receipt of goods in the SEZ unit.

4.2 That the applicant has cleared the goods to the SEZ unit under cover of ARE-1 mentioning clearly the name of the unit in the SEZ. The duplicate copies of ARE-1 evidencing proof of admission of goods into the SEZ unit duly certified by the Authorized Officer has been furnished by applicant, which is also not in dispute. The only reason for denial of rebate by the Original Authority was that invoice was in the name of a third party. That this was because they had procured the orders through dealers and hence the invoices were in the name of dealers. However, the goods were meant for SEZ and the transaction was routed through dealers for commercial and trade reasons and rebate is eligible in terms of SEZ Act and Rules made thereunder. Non availability of certain documents is only procedural and rebate should not be rejected when the export of goods is not in dispute.

The applicant relied upon the following case laws in support of their contention

i) Shyamaraju & Co India Pvt Ltd Vs UOI [(2010 (256) E.L.T. 193 (Kar.)]
ii) Sujana Metal Products Ltd Vs CCE [(2011 (273) E.L.T. 112 (Tri. Bang.)]
iii) IRe: P.K. Tubes & Fittings Pvt Ltd [(2012 (276) E.L.T. 113]
iv) Re: Indo Amines Ltd [(2012 (284) E.L.T. 147 (G.O.I.)]
v) In Re: Ace Hygiene Products Pvt Ltd [(2012 (276) E.L.T. 131]

The revision application pertaining to impugned Order-in-Original No 17/2013 dated 03.04.2013, has additional grounds as under

4.3 That as regards the rejection of the claim for inputs cleared as such on expunging credit the same are eligible and the following case laws have been relied upon in support of the contention

i) CCE Vs. Micro Inks Ltd. [(2011)(270) ELT 360 (Bom)]

ii) Super Spinning Mills Vs. CCE [(2009)(244) ELT 463 (Bom)]

iii) Finolex Cables Ltd. Vs. CCE [(2007) (210) ELT 76 (Tri. Mumbai)]

4.4 That there is no prohibition under Rule 11 to supply goods to actual consumer through third party/dealer. Third party exports are also permissible under Central Excise law, and rebate sanctioned to the person who has borne the incidence of duty. Hence the observation of lower authority is incorrect.

5. A personal hearing in the case was scheduled on 10.08.2021, 17.08.2021, 15.12.2021, 21.12.2021, 03.02.2022, 09.02.2022 and 23.02.2022. Shri Srinivasan, Manager (Finance) of applicant appeared online for personal hearing on 23.02.2022 and reiterated his earlier submissions. He stated that two grounds on which their rebate claims have been rejected i.e. Invoices are in favour of dealer and goods supplied to SEZ unit and reversal of cenvat when inputs were exported as such is not payment of duty are not valid grounds, as there is no dispute that the goods were exported to SEZ and reversal of cenvat makes imports duty paid. He requested to sanction the rebate.

6. Government observes that the Appellate Authority has dismissed the appeal filed by the applicant on three grounds as follows :-

a) In one case the original / duplicate copies of ARE-1 were not endorsed by the SEZ authorities and in some cases the duplicate and triplicate copies of the ARE-1 were not submitted by the applicant along with the claims of rebate.

b) The rebate of duty paid on export of inputs cleared as such is not allowed.

c) That though the goods were cleared to SEZ by the applicant, the invoices were raised on a third party,

8. Government in the instant case notes that the rebate claims filed by the applicant were rejected by the Original Authority for non-production of duplicate/triplicate copy of ARE-1's as required under provisions of Section 11B of the Central Excise Act, 1944 read with clause 8.3 & 8.4 of the Supplementary Instructions issued by CBEC. The Government also notes that in one case the rebate was rejected as the original and duplicate copies of the ARE 1 was not endorsed by the SEZ authorities.

8.1 The Government notes that the Manual of Instructions that have been issued by the CBEC specifies the documents which are required for filing a claim for rebate. Among them is the original / duplicate copy of the ARE-1, the invoice and self-attested copy of shipping bill and bill of lading. Further paragraph 8.4 of the said Manual specifies that the rebate sanctioning authority has to satisfy himself in respect of essentially two requirements. The first requirement is that the goods cleared for export under the relevant ARE-1 applications were actually exported as evident from the original and duplicate copies of the ARE-1 form duly certified by customs. The second is that the goods are of a duty paid character as certified on the triplicate copy of the ARE-1 form received from the jurisdictional Superintendent of Central Excise. The object and purpose underlying the procedure which has been specified is to enable the authority to duly satisfy itself that the rebate of central excise duty is sought to be claimed in respect of goods which were exported and that the goods which were exported were of a duty paid character.

8.2. Hence, in cases where the original/duplicate/triplicate copies have not been submitted, the production of the ARE-1 form in the original and duplicate is a matter of procedural omission and non-submission of original & duplicate copies of ARE-1 form by the applicant should not result in the deprival of the statutory right to claim a rebate subject to the satisfaction of the authority on the production of sufficient documentary material that would

establish the identity of the goods exported and the duty paid character of the goods.

8.3. In several decisions of the Union Government in the revisional jurisdiction as well as in the decisions of the CESTAT, the production of the relevant forms has been held to be a procedural requirement and hence directory as a result of which, the mere non- production of such a form would not result in an invalidation of a claim for rebate where the exporter is able to satisfy through the production of cogent documentary evidence that the relevant requirements for the grant of rebate have been fulfilled. In the present case, no doubt has been expressed whatsoever that the goods were not exported.

8.4 Thus, the Government further observes that a distinction between those regulatory provisions which are of a substantive character and those which are merely procedural or technical has been made in a judgment of the Supreme Court in **"Mangalore Chemicals & Fertilizers Ltd. v. Deputy Commissioner-1991 (55) E.L.T. 437 (S.C.)"**. The Supreme Court held that the mere fact that a provision is contained in a statutory instruction "does not matter one way or the other". The Supreme Court held that non-compliance of a condition which is substantive and fundamental to the policy underlying the grant of an exemption would result in an invalidation of the claim. On the other hand, other requirements may merely belong to the area of procedure and it would be erroneous to attach equal importance to the non-observance of all conditions irrespective of the purposes which they were intended to serve. The Supreme Court held as follows :

> *"The mere fact that it is statutory does not matter one way or the other. There are conditions and conditions. Some may be substantive, mandatory and based on considerations of policy and some other may merely belong to the area of procedure. It will be erroneous to attach equal importance to the non-observance of all conditions irrespective of the purposes they were intended to serve."*

8.5 In this regard Government observes that while deciding the identical issue, Hon'ble High Court of Bombay in its judgment dated 24-4-2013 in the case of M/s. U.M. Cables v. UOI (WP No. 3102/2013 & 3103/2013) reported as TIOL 386 HC MUM CX. = 2013 (293) E.L.T. 641 (Bom.), at para 16 and 17 of its Order observed as under :-

> *"16. However, it is evident from the record that the second claim dated 20 March, 2009 in the amount of Rs. 2.45 lacs which forms the subject matter of the first writ petition and the three claims dated 20 March, 2009 in the total amount of Rs. 42.97 lacs which form the subject matter of the second writ petition were rejected only on the ground that the Petitioner had not produced the original and the duplicate copy of the ARE-1 form. For the reasons that we have indicated earlier, we hold that the mere non-production of the ARE-1 form would not ipso facto result in the invalidation of the rebate claim. In such a case, it is open to the exporter to demonstrate by the production of cogent evidence to the satisfaction of the rebate sanctioning authority that the requirements of Rule 18 of the Central Excise Rules, 2002 read together with the notification dated 6 September, 2004 have been fulfilled. As we have noted, the primary requirements which have to be established by the exporter are that the claim for rebate relates to goods which were exported and that the goods which were exported were of a duty paid character. We may also note at this stage that the attention of the Court has been drawn to an order dated 23 December, 2010 passed by the revisional authority in the case of the Petitioner itself by which the non-production of the ARE-1 form was not regarded as invalidating the rebate claim and the proceedings were remitted back to the adjudicating authority to decide the case afresh after allowing to the Petitioner an opportunity to produce documents to prove the export of duty paid goods in accordance with the provisions of Rule 18 read with notification dated 6 September, 2004 [Order No. 1754/2010-CX, dated 20 December, 2010 of D.P. Singh, Joint Secretary, Government of India under Section 35EE of the Central Excise Act, 1944]. Counsel appearing on behalf of*

the Petitioner has also placed on the record other orders passed by the revisional authority of the Government of India taking a similar view [Garg Tex-O-Fab Pvt. Ltd. - 2011 (271) E.L.T. 449] and Hebenkraft - 2001 (136) E.L.T. 979. The CESTAT has also taken the same view in its decisions in Shreeji Colour Chem Industries v. Commissioner of Central Excise - 2009 (233) E.L.T. 367, Model Buckets & Attachments (P) Ltd. v. Commissioner of Central Excise - 2007 (217) E.L.T. 264 and Commissioner of Central Excise v. TISCO - 2003 (156) E.L.T. 777.

17. We may only note that in the present case the Petitioner has inter alia relied upon the bills of lading, banker's certificate in regard to the inward remittance of export proceeds and the certification by the customs authorities on the triplicate copy of the ARE-1 form. We direct that the rebate sanctioning authority shall reconsider the claim for rebate on the basis of the documents which have been submitted by the Petitioner. We clarify that we have not dealt with the authenticity or the sufficiency of the documents on the basis of which the claim for rebate has been filed and the adjudicating authority shall reconsider the claim on the basis of those documents after satisfying itself in regard to the authenticity of those documents. However, the rebate sanctioning authority shall not upon remand reject the claim on the ground of the non-production of the original and the duplicate copies of the ARE-1 forms, if it is otherwise satisfied that the conditions for the grant of rebate have been fulfilled. For the aforesaid reasons, we allow the Petitions by quashing and setting aside the impugned order of the revisional authority dated 22 May, 2012 and remand the proceedings back to the adjudicating authority for a fresh consideration. The rejection of the rebate claim dated 8 April, 2009 in the first writ petition is, however, for the reasons indicated earlier confirmed. Rule is made absolute in the aforesaid terms."

8.6 Government also observes that Hon'ble High Court, Gujarat in Raj Petro Specialities Vs Union of India [2017(345) ELT 496(Guj)] also while deciding

the identical issue, relying on aforestated order of Hon'ble High Court of Bombay, vide its order dated 12.06.2013 observed as under:

> *7. "Considering the aforesaid facts and circumstances, more particularly, the finding given by the Commissioner (Appeals), it is not in dispute that all other conditions and limitations mentioned in Clause (2) of the notifications are satisfied and the rebate claim have been rejected solely on the ground of non-submission of the original and duplicate ARE-1s, the impugned order passed by the Revisional Authority rejecting the rebate claim of the respective petitioners are hereby quashed and set aside and it is held that the respective petitioners shall be entitled to the rebate of duty claimed for the excisable goods which are in fact exported on payment of excise duty from their respective factories. Rule is made absolute accordingly in both the petitions".*

8.7 Government finds that rational of aforesaid Hon'ble High Court orders are squarely applicable to this case also. Further, from the impugned Orders-in-Original, Government observes that from the documents submitted by the applicant the bonafides of export were not questioned by the Original Authority and the rebate claim should not be withheld for minor infractions like non-production of Duplicate/Triplicate copy of ARE-1.

9. On perusal of records Government observes that in some of the cases, the applicant supplied the inputs as such to SEZ unit debiting Cenvat Credit account. The impugned rebate claims were denied by lower authorities on the ground that debit under Rule 3(5) of the said Rule is not payment of duty in terms of Notification No. 19/2004-C.E. (N.T.), dated 6-9-2004 and the impugned inputs/goods were not cleared directly from the factory or warehouse.

9.1 In this regard, it is pertinent to note the provisions of Rule 4 of the Central Excise Rules, 2002. In terms of the said Rule, every person who produces or manufacturers any excisable goods, or who stores such goods in a warehouse, shall pay the duty leviable on such goods in the manner

provided in Rule 8 or under any other law, and no excisable goods, on which duty is payable, shall be removed without payment of duty from any place, where they are produced or manufactured, or from a warehouse, unless otherwise provided.'

Rule 8 of the Central Excise Rules, 2002 provides for 'Manner of Payment' of duty on the goods removed from the factory or the warehouse registered under the provisions of Central Excise Law. In this regard, the applicant would like to submit that as per explanation inserted by Notification No. 8/2007-C.E. (N.T.), dated 1-3-2007 the duty paid by using Cenvat credit is also to be treated as 'duty of excise'. The relevant explanation is extracted hereunder:

> *"Explanation - For the purposes of this rule, the expressions 'duty' or 'duty of excise' shall also include the amount payable in terms of the Cenvat Credit Rules, 2004."*

In terms of the provisions of sub-rule (5) of Rule 3 of the Rules, an amount equal to Cenvat credit availed on the inputs is liable to be reversed at the time of their clearance from the factory on 'as such basis' and in terms of explanation to sub-rule (4) of Rule 8 of the Central Excise Rules, 2002, the same requires to be treated as "duty" or "duty of excise" and hence the conclusion drawn by the Commissioner (Appeals) is contrary to the law.

9.2 In this regards, the Central Board of Excise and Customs, vide Circular No. 283/117/96-CX, dated 31-12-1996, clarified as under:

> *"4. It is also observed that in case such inputs are cleared on payment of duty by debit in RG 23A part-II account by virtue of Rule 57F(4)(iii), the manufacturer will be entitled for rebate under Rule 12(1)(a) of the Central Excise Rules. He is, however, put to disadvantage if he opts for export under bond procedure. The exports under 'claim of rebate 'and 'export under bond' should be at parity, since, intention of both the procedures are to make duty incidence 'nil'. It is also an established principle that rules should be interpreted in a manner which do not render them redundant*

5. Accordingly, it is clarified that the Modvat Credit in RG 23A Part-II account against the export of inputs as such under bond can be utilized in the same manner as it is provided for a final product under proviso to Rule 57F(4).Obviously, it follows from this that such inputs should be allowed to be exported under bond without any reversal of the credit"

From the above, it is evident that any supplies made to an SEZ unit or SEZ developer needs to be understood as 'exports'. Further, the Circular No. 6/2010-Cus., dated 19-3-2010 issued by the Central Board of Excise and Customs, New Delhi clarifies the issue as under:

"2. A view has been put forth that rebate under Rule 18 of the Central Excise Rules, 2002 read with Notification No. 19/2004-C.E. (N.T.), dated 6-9-2004 is admissible only when the goods are exported out of India but not when supplies are made to SEZ.

3. The matter has been examined. The Circular No. 29/2006-Cus., dated 27-12-2006 [2007 (207) E.L.T. T35] was issued that rebate under Rule 18 is admissible when the supplies are made from DTA to SEZ. The Circular also lays down the procedure and the documentation for effecting supply of goods from DTA to SEZ, by modifying the procedure for normal export. Clearance of duty free material for authorized operation in the SEZ is admissible under section 26 of the SEZ Act, 2005 and procedure under Rule 18 or Rule 19 of the Central Excise Act, as envisaged under Rule 30 of the SEZ Rules, 2006.

4. Therefore, it is viewed that the settled position that rebate under Rule 18 of the Central Excise Rules, 2002 is admissible for supplies made from DTA to SEZ does not warrant any change even if Rule 18 does not mention such supplies in clear terms. The field formations are required to follow the Circular No. 29/2006 accordingly."

9.3 This issue has been settled by Hon'ble High Court of Bombay in its order,

dated 23-3-2011 in the case of *CCE, Raigarh* v. *Micro Ink Ltd.* in W.P. No. 2195/2010, reported as 2011 (270) E.L.T. 360 (Bom.). In the said writ petition Commissioner of Central Excise, Raigarh had challenged the GOI Order No. 873/10-CX., dated 26-7-2010 passed in the case of *M/s. Micro Inks* with respect to Order-in-Appeal No. SKS/244/RGD/2008, dated 30-4-2008 passed by Commissioner of Central Excise (Appeals) Mumbai Zone-II. Government had held in the said order, dated 26-5-2010 that amount reversed under Rule 3(4)/3(5) of Cenvat Credit Rules, 2004 is to be treated as payment of duty for the purpose of Rule 18 of Central Excise Rules, 2002 read with Notification No. 19/2004-C.E. (N.T.), dated 6-9-2004. This view of the Government is upheld by Hon'ble High Court of Bombay in the above said judgment. The observations of High Court in paras 16 to 19 of said order are reproduced below :-

"16. Since rule 3(4) of the 2002 Rules is pari materia with Rule 57(1)(ii) of the Central Excise Rules, 1944 it is evident that inputs/capital goods when exported on payment of duty under Rule 3(4) of 2002 Rules, rebate of that duty would be allowable as it would amount to clearing the inputs/capital goods directly from the factory of the deemed manufacturer. In these circumstances, the decision of the Joint Secretary to the Government of India that the assessee who has exported inputs/ capital goods on payment of duty under Rule 3(4) & 3(5) of 2002 Rules (similar to Rule 3(5) & 3(6) of 2004 Rules) therefore entitled to rebate of that duty cannot be faulted.

17. The contention of the revenue that the payment of duty by reversing the credit does not amount to payment of duty for allowing rebate is also without any merit because, firstly there is nothing on record to suggest that the amount paid on clearance of inputs/capital goods for export as duty under Rule 3(4) & 3(5) of 2002 Rules cannot be considered as payment of duty for granting rebate under the Cenvat Credit Rules. If duty is paid by reversing the credit it does loose the character of duty and therefore if rebate is otherwise

allowable, the same cannot be denied on the ground that the duty is paid by reversing the credit. Secondly, the Central Government by its circular No. 283/1996, dated 31st December, 1996 has held that amount paid under Rule 57F(1)(ii) of Central Excise Rules, 1944 (which is analogous to the Cenvat Credit Rules, 2002/Cenvat Credit Rules, 2004) on export of inputs/capital goods by debiting RG 23A Part II would be eligible for rebate. In these circumstances denial of rebate on the ground that the duty has been paid by reversing the credit cannot be sustained.

18. The argument of the Revenue that identity of the exported inputs/capital goods could not be correlated with the inputs/capital goods brought into the factory is also without any merit because, in the present case the goods were exported under ARE 1 form and the same were duly certified by the Customs Authorities. The certificate under the ARE 1 form is issued with a view to facilitate grant of rebate by establishing identity of the duty paid inputs/capital goods with the inputs/capital goods which are exported.

19. For all the aforesaid reason, we see no infirmity in the order passed by the Joint Secretary to the Government of India. Accordingly, rule is discharged with no order as to costs."

9.4 The ratio of the abovesaid order of Hon'ble High Court of Bombay is squarely applicable to this case on the subject issue. Government therefore holds that the reversal of Cenvat Credit under Rules 3(4) and 3(5) is nothing but payment of duty on the goods exported/supplied to SEZ. Rule 3(6) of Cenvat Credit Rules, 2004 clearly stipulates that the amount paid under Rule 3(5) shall be eligible as Cenvat credit as if it was a duty paid by the person who removed such goods under Rule 3(5) of Cenvat Credit Rules, 2004. Further, in terms of explanation to sub-rule (4) of Rule 8 of Central Excise Rules, 2002 that the expression duty or duty of excise shall also include amount payable in terms of Cenvat Credit Rules, 2004. Since the fundamental requirement of export of duty paid same very goods gets satisfied in these cases for claiming rebate claim under Rule 18 of Central Excise Rules, 2002,

therefore, Government observes that rebate claim is admissible to the applicant under Rule 18 of Central Excise Rules, 2002 read with Notification No. 19/2004-C.E. (N.T.), dated 6-9-2004 on this issue.

10. As regards the cases where the rebate claim has been rejected as the invoice were raised on the third party, Government notes that the clearance and receipt of goods by the SEZ has not been questioned or the genuineness of the clearances to the SEZ has not been doubted by the Original Authority or the Appellate Authority. The applicant in Revision Application in respect of Order-in-Original No 17/2013 dated 02.04.2013 has also claimed that though the invoices have been raised on the dealers, the invoices mention the name of the SEZ units.

11. In view of the above discussion and findings, the Government sets aside the orders of the Commissioner (Appeals) and remands the case back to the Original Authority

a) to reconsider the rebate claims rejected on the grounds of non submission of original / duplicate copies of ARE-1 for rebate on the basis of the collateral documents submitted by the applicant after satisfying itself in regard to the authenticity of those documents. However, the Original Authority shall not reject the claims merely on the ground of the non-production of the original or duplicate copy of the ARE-1 form, if it is otherwise satisfied that the conditions for the grant of rebate have been fulfilled.

b) to allow the rebate of duty paid on inputs cleared as such to the SEZ units for export subject to the verification of proper reversal of duty involved therein.

c) to reconsider the claims of applicant after verification regarding the submissions of the applicant regarding mention of name of the consignee i.e SEZ units, on the invoices and also verify the documentary evidence of the receipt of the goods into the SEZ .

11.1 The Original Authority shall pass the order within eight weeks from the receipt of this order.

12. The Revision Applications are allowed on the above terms.

23/6/22
(SHRAWAN KUMAR)
Principal Commissioner & Ex-Officio
Additional Secretary to Government of India.

ORDER No. 646-647 /2022-CX (SZ)/ASRA/Mumbai DATED 23.06.2022.

To,
M/s Grundfos Pumps India Pvt. Ltd.
118, Old Mahabalipuram Road,
Thoraipakkam, Chennai - 600 097

Copy to:

1. The Commissioner of Goods & Service Tax, Chennai South Commissionerate, 5th floor, 692, M.H.U. Complex, Anna Salai, Nandanam , Chennai - 600 035.
2. The Commissioner of Goods & Service Tax, (Appeals-II), Newry Towers, No.2054, I Block, II Avenue, 12th Main Road, Anna Nagar, Chennai - 600 040.
3. The Deputy Commissioner, CGST, Thuraipakkam Division, Chennai South Commissionerate, 5th floor, 692, M.H.U. Complex, Anna Salai, Nandanam , Chennai - 600 035.
4. Sr. P.S. to AS (RA), Mumbai
5. Notice Board.
6. Spare Copy