REGISTERED
SPEED POST

GOVERNMENT OF INDIA
MINISTRY OF FINANACE
DEPARTMENT OF REVENUE

Office of the Principal Commissioner RA and
Ex-Officio Additional Secretary to the Government of India
8th Floor, World Trade Centre, Cuffe Parade,
Mumbai- 400 005

F.No.195/16/WZ/2020 /2626 Date of Issue: 24.06.2022

ORDER NO. 658/2022-CX (WZ)/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 VE Commercial Vehicles Ltd,
Plot No 52/1,52/2,
Indore Ratlam Highway
Village Baggad, Distt Dhar.

Respondents : Commissioner of CGST, Indore

Subject : Revision Application filed, under Section 35EE of the Central Excise Act, 1944 against the Order-in-Appeal No. IND-EXCUS-000-APP-334-18-19 dated 30.11.2018 passed by the Commissioner (Appeals), CGST & CEX, Indore.

ORDER

This Revision Application is filed by M/s VE Commercial Vehicles Ltd, Plot No 52/1,52/2, Indore Ratlam Highway, Village Baggad, Distt Dhar (hereinafter referred to as "the applicant") against the Order-in-Appeal No. IND-EXCUS-000-APP-334-18-19 dated 30.11.2018 passed by the Commissioner (Appeals), CGST & CEX, Indore.

2. The facts of the case in brief are that the applicant filed a Rebate Claim under Rule 18 of the Central Excise Rules, 2002 in respect of goods cleared for export vide ARE-1 Nos. 0288/17-18, 0305/17-18 0306/17-18, 0323/17-18, 0334/17-18, 0345/17-18, 0352/17-18, 0356/17-18, 0362/17-18, 0387/17-18, 0394/17-18, 0400/17-18, 0430/17-18 and 0433/17-18 all dated between 07.06.2017 to 30.06.2017. The Adjudication Authority rejected the said claim on the ground that the applicant had failed to follow conditions stipulated under Notification No. 19/2004-CE (NT) dated 06.09.2004 issued under Rule 18 of the said Rules, in as much as :

(i) That the excisable goods were not exported directly from the factory of the manufacturer.

(ii) That the triplicate copy of ARE-1 did not bear the seal and signature of the Range Officer, and that the applicant did not intimate the Range Officer within 24 hours of clearance for export;

(iii) That no certification of the authorised person was found on the relevant ARE-1 copies, as required in case of self-sealing and self certification in-terms of condition at 3(a)(xi) of the said Notification;

(iv) That due to consolidated duty debit entry at the end of the month for the excisable goods cleared for domestic and export clearances, it was not possible to ascertain as to whether proper duty payment was made and as to whether sufficient balance was there in the applicant's cenvat credit account or not;

(v) That the description of goods on ARE-1's, commercial invoice and export invoices were not matching;

(vi) That, in respect of goods cleared under ARE-1 No.394/17-18 dated 23.06.2017 involving rebate of Rs.1,20,326/-, the goods were exported on 20.03.2018 i.e., after the expiry of six months from date of clearance from the

factory, and no permission was sought by the applicant for extension of the time limit;

(vii) That the EP copy of shipping Bill was not attached with the claim.

4. Being aggrieved by the Order-in-Original, the applicant filed an appeal before the Commissioner (Appeals), CGST & CEX, Indore. The Appellate Authority vide Order-in-Appeal No. IND-EXCUS-000-APP-334-18-19 dated 30.11.2018 set aside the impugned Order-in-Original and partially allowed the appeal filed by the applicant by way of remanding back the case to the jurisdictional adjudicating authority, excluding the cases where the goods had been exported after six months from their clearance for export from the factory and also where EP copy of Shipping Bills had not been submitted by the applicant

4.1 In respect of the issues which were rejected by the Appellate Authority while passing the impugned Order-in-Appeal, the observations are as under

4.1.1 As regards the goods being exported beyond six months from their removal from factory under ARE 1 No. 394/2017-18 dated 23.06.2017, the applicant should have approached the jurisdictional Commissioner for extension of the time limit and there was nothing that might have prevented them. As regards to the case laws relied upon by the applicant, the same have been distinguished in the Govt. of India's Order No. 1228/2011-CX, dated 20-9-2011 passed in the case of M/s Kosmos Healthcare Pvt.Ltd., [2013 (297) E.L.T. 465 (G.O.I.)] and thus in respect of goods exported after the expiry of six months from the date of clearance from the factory the rebate claims have been rightly rejected by the Adjudicating Authority.

4.1.2 As regards non-submissions of EP Copy of the relevant Shipping Bills, no force was found in the applicants submissions that the Public Notice issued by Mumbai Customs is applicable at All India level and that the said Public Notice was later amended to the extent that wherever an exporter wishes for EP copy of the Shipping Bill copy was to be provided to the exporter. Thus, the burden was on the applicant to submit EP copy of the relevant Shipping Bill as the same was listed in the list of documents to be submitted along with rebate claim.

5. Being aggrieved by the impugned Order-in-Appeal, the applicant filed the instant Revision Application against that part of the OIA where rebate was rejected on the grounds that the goods were exported after six months from the clearance from the factory and where the rebate claim was rejected for non filing of export promotion copy of the Shipping Bills. The grounds on which the revision application has been filed are as under:

i) That the basic condition for granting rebate under Rule 18 is that the goods must be exported on payment of Central Excise duty and the six months restriction was imposed when the goods exported without payment of Central Excise duty for safeguarding of the revenue. In the present case, the revenue was not in danger because the goods were exported on payment of duty and finally it is established that the goods, under reference, were exported.

ii) That further the condition (b) as mentioned in the said Notification itself speaks that extension for proof of export can be granted as a quasi judicial authority and also on the basis of various judgements of Government of India, rebate can be granted even when goods have been exported after six months from the date of clearance.

The applicant has cited the following case laws in support of their contention

a) CCE vs. Birla Tyers [2005(179) ELT 417 (CESTAT)]
b) Harison Chemicals [2006(200) ELT 171(GOI)]
c) Chamunda Pharma Machinery vs. CCE [2009(244) ELT 492]

iii) That when Govt. of India has decided that even if the goods were exported beyond six months, the rebate should not be rejected, it would not be proper in the interest of the justice to disallow the rebate claim on procedural aspects.

iv) That the Appellate Authority had erred in placing reliance on the case of M/s Kosmos Healthcare Pvt. Ltd. vs. GOI reported at [2013 (297) ELT 465 (GOI)] in rejecting the rebate claim in respect of the goods which were exported beyond six months as the same was overruled by Hon'ble High Court Kolkata, [2013 (297) E.L.T. 345 (Cal.)] .

v) That the delay in the case of goods cleared under invoice no 121251 dated 23.06.2017, and exported after six months from clearance from the factory, occurred at the custom' port.

vi) That in view of the judgement delivered by Hon'ble Court in the case of M/s Kosmos Healthcare Pvt. Ltd. vs. GOI reported at [2013 (297) E.L.T. 345 (Cal.)] the present rebate claim is liable to be allowed as no allegation had been raised on the export of the goods.

vii) That EP copy of shipping bill is not required to be submitted alongwith the rebate claim as the same was not provided to the exporter as per Circular No. 55/2016 dated 24.11.2016 issued by CBEC read with public notice number 4/2017 dated 10.01.2017 issued by JNCH, Nhava Sheva

viii) That as far as the proof of export is concerned, on the reverse of each and every ARE-1, customs officer has clearly mentioned date of export alongwith the Shipping Bill number indicating that the goods were exported.

ix) That the all legible copies of the Shipping Bills were submitted and the adjudicating authority was supposed to follow the procedures as per para 8.4 of the CBEC's Excise Manual of Supplementary Instruction 2005.

x) That as per the procedure in Para (3)(b)(ii) of Notification No. 19/2004, it is clear that original and duplicate copy of ARE-1 duly certified by the customs indicate that the goods were actually exported.

xi) That as regards non submission of EP copy of the Shipping Bills, the Adjudicating Authority had rejected the applicants reliance on Public Notice No 42/2017 dated 04.04.2017 issued by Commissioner of Customs, Mumbai, on the grounds that.the goods were cleared from Petrapole and the said Public Notice could not be relied. That this indicated that the Adjudicating Authority has accepted the contention of the applicant for exports made through Mumbai Port and the objection is restricted to the export of the goods through Petrapole only.

xii) That the said public notice was issued on the basis of Circular No. 55/2016 dated 24.11.2016 issued by CBEC and thus the circular was issued for compliance by all customs authorities and these instructions were not only meant for Mumbai port.

xiii) That the Appellate Authority disallowed those cases where the EP copies of the Shipping Bills were not submitted without mentioning the specific numbers of the Shipping Bills.

xiv) That as per Circular No. 55/2016 dated 23.11.2016, no EP copy of Shipping Bill will be available to exporters and as such the question of submitting EP copy of Shipping Bill did not arise and the proof of export was also available at the website of the ICEGATE. The Circular also states that printing of Exchange Control copy and Export Promotion Copy of the Shipping Bill does not serve any useful purpose.

xv) That the copies of proof of exports, in respect of the goods under reference, are available in website of ICEGATE.

xvi) The the Adjudicating Authority has stated that in the absence of EP copy of shipping bill, the export copy of the shipping bills being submitted along with rebate claim were not legible but the applicant states that legible copies of the Shipping Bills were submitted along with the appeal copies.

xvii) That the earlier refund claims submitted on the basis of export copy of Shipping Bills have been sanctioned and also accepted by the Department.

xviii) The applicant has cited the following case laws in support of their contention that the rebate should not be denied on procedural/technical lapses

a) Commr. of S.T, Noida vs Atrenta India Pvt Ltd [2017 (48) S.T.R. 361 (All.)]
b) Formica India Division vs. Collector of C Excise [1995 (77)E.L.T. 511 (S.C.)]
c) Tricon Enterprises Pvt Ltd [2015 (320) E.L.T. 667 (G.O.I.)].
d) Zandu Chemicals Ltd vs. UOI [2015 (315) E.L.T. 520 (Bom.)]
e) Sanket Industries Ltd. [2011 (268) ELT 125 (GOI)]

6. Personal hearing in this case was scheduled on 02.12.2021. Shri Rabi Sankar Roychoudhury, Advocate and Shri Chimanlal Dangi, Advocate appeared for hearing on behalf of the applicant and made additional submissions pertaining to the instant case and stated that the rebate in respect of exports after six months may be allowed. They submitted that procedural infractions can not take away their substantial right when export of duty paid goods is not in dispute.

7. The applicant in their additional submission filed on the date of hearing reiterated the facts and grounds made by them in the Revision Application and cited the following case laws in addition to the above in support of their contention

a) Suksha International vs. UOI – [1989 (39) E.L.T. 503 (S.C.)]
b) Union of India vs. AV Narasimhalu – [1983 (13) E.L.T. 1534 (S.C.)]
c) Harison Chemicals [2006(200)ELT171 (GOI)]
d) Chamunda Pharma Machinery vs. CCE [2009(244)ELT492]
e) Ace Hygiene Products Pvt Ltd [2012 (276) E.L.T. 131 (G.O.I.)]

7.1 The applicant filed further written submissions on 09.12.2021 under which they submitted a copy of the application dated 07.12.2021 filed before the jurisdictional Commissioner for condonation of delay in respect of goods which were exported beyond six months from the date of their clearances from the factory and also evidences of realization of export proceeds. In the submissions, the applicant submitted that as per the judgement of the Hon'ble High Court of Calcutta in the case of M/s Kosmos Healthcare Pvt Ltd vs. GOI [2013(297)ELT 345] 'Rebate-Export obligation - Time stipulation of six months in Notification No 19/2004-CE (NT) - Its

extension can be granted post facto, and is not required to be obtained in advance.' and also submitted copy of Circular No 75/2002-Cus dated 12.11.2002 issued by CBEC.

8. Government has carefully gone through the relevant case records available in case files, and perused the impugned Order-in-Original and Order-in-Appeal and the written synopsis filed during the personal previous hearing and also further written submissions dated 09.12.2021.

8.1 On perusal of records, Government observes that the applicant had filed a rebate claim for duty amounting to Rs. 63,78,523/- in respect of goods exported by them, which was rejected by the Adjudicating Authority on various grounds. The Appellate Authority partially allowed the appeals by way of remanding back of the case to the jurisdictional Adjudicating Authority excluding rebate claims in cases where the goods had been exported after six months from their clearance for export from the factory and where the Export Promotion copies of the Shipping Bill were not submitted by the applicant, for which the applicant has filed the Revision Application.

8.2 Government notes that the applicant has reasoned that the basic condition of Rule 18 of the Central Excise Rules, 2002 was satisfied as the goods were actually exported on payment of duty and non adherence to the time stipulation was a procedural infraction and the rebate claim should be rejected on technical grounds or for procedural lapses.

8.3 Government notes that there are many orders of Government of India wherein it is held that the limiting condition of goods to be exported within six months of clearance from the factory and requirement of permission by authority for extension of time, is a statutory and mandatory condition under Notification No. 19/2004-C.E. dated 06.09.2004 issued under Rule 18 of Central Excise Rules, 2002 and as a result, rebate is not allowed for violation of the said mandatory conditions. However, Government also notes that in Order No. 1228/2011-CX, dated 20-9-2011 of Kosmos Healthcare Pvt. Ltd.[2013 (297) E.L.T. 465 (G.O.I.)], the rebate claim was denied on the grounds that *"Clause 2(b) of Notification No. 19/2004-C.E. (N.T.), dated 6-9-2004 stipulates that the excisable goods shall be exported within six months from the date on which they were cleared for export from the factory of manufacture, which*

has been violated by the applicant; that they had not made any application for extension of time-limit before proper authority; that they had not produced any permission granting extension of time limit from competent authority till date; that the non-compliance of a substantive condition of Notification cannot be treated as a procedural lapse to be condoned". This Order No. 1228/2011-CX, dated 20-9-2011 was challenged by Kosmos Healthcare Pvt. Ltd. before Hon'ble High Court Calcutta vide Writ Petition No. 12337(W) of 2012.

8.4 The Hon'ble High Court Calcutta while remanding back the case to the Revisionary Authority vide its Order dated 19.09.2012 observed as under:

> *"21. On a reading of the Notification No. 40/2001 there is nothing to show that the time stipulation cannot be extended retrospectively, after the export, having regard to the facts of a particular case. The benefit of drawback has, in numerous case, been allowed notwithstanding the delay in export. This in itself shows that the respondent authorities have proceeded on the basis that the time stipulation of six months is not inflexible and the time stipulation can be condoned even at the time of consideration of an application for refund/drawback.*
>
> ....
>
> ....
>
> *28. When there is proof of export, as in the instant case, the time stipulation of six months to carry out export should not be construed within pedantic rigidity. In this case, the delay is only of about two months. The Commissioner should have considered the reasons for the delay in a liberal manner.*
>
> *29. It would perhaps be pertinent to note that an exporter does not ordinarily stand to gain by delaying export. Compelling reasons such as delay in finalization and confirmation of export orders, cancellation of export orders and the time consumed in securing export orders/fresh export orders delay exports.*
>
> *30. As observed above, the notification does not require that extension of time to carry out the export should be granted in advance, prior to the export. The Commissioner may post facto grant extension of time.*
>
> *31. What is important is, the reason for delay. Even after export extension of time may be granted on the same considerations on which a prior application for extension of time to carry out export is allowed. If there is sufficient cause for the delay, the delay will have to be condoned, and the time for export will have to be extended. In my view, in considering the causes of delay, the Commissioner would have to take a liberal approach keeping in mind the object of the duty exemption, which is encouragement of exports.*
>
> *32. Of course, in a case of inordinate unexplained delay or a case where the delay has caused loss of revenue to the Government or in a case where there is*

reason to believe that export has been delayed deliberately with ulterior intention, for example, for higher gain in anticipation price variation, the delay may not be condoned.

33. The impugned revisional order is set aside and quashed. The Respondent No. 3 is directed to decide the revisional application afresh in the light of the observations made above."

The applicant in their submissions have relied upon aforesaid Order of Hon'ble High Court Calcutta to further their claim that the delay was a procedural infraction and be condoned.

8.5 Upon perusal of Order Hon'ble High Court Calcutta referred supra, Government observes that Hon'ble High Court has interalia observed that the *"Notification No.40/2001 does not require that extension of time to carry out the export should be granted in advance, prior to the export; that the Commissioner may post facto grant extension of time; that what is important is, the reason for delay; that even after export extension of time may be granted on the same considerations on which a prior application for extension of time to carry out export is allowed; that if there is sufficient cause for the delay, the delay will have to be condoned, and the time for export will have to be extended; that in considering the causes of delay, the Commissioner would have to take a liberal approach keeping in mind the object of the duty exemption, which is encouragement of exports".* Government further observes that the Hon'ble High Court in the order has further noted that, *"in a case of inordinate unexplained delay or a case where the delay has caused loss of revenue to the Government or in a case where there is reason to believe that export has been delayed deliberately with ulterior intention, for example, for higher gain in anticipation price variation, the delay may not be condoned".*

8.6 In the instant case, Government does not find anything on record indicating that the applicant had applied for extension of time in respect of delayed exports, either before or even after carrying out exports explaining the reasons for the delay to the Competent Authority. Government, taking into account the directions of Hon'ble High Court, Calcutta is of the considered opinion that in the absence any application for extension of time explaining sufficient cause for delay to the Competent Authority by the applicant, before filing the rebate claim or even before filing an appeal before the Appellate Authority, delay cannot be condoned. Hence, the reliance placed by the applicant on the aforesaid case law is misplaced.

9. In this regard, Government finds it pertinent to reproduce the relevant part of the Order of Hon'ble High Court of Judicature at Bombay dated 15.09.2014 dismissing the Writ Petition No. 3388 of 2013, filed by M/s Cadila Health Care Limited [2015 (320) E.L.T. 287 (Bom.)] and upholding the Order-in-Original dated 23.12.2009 which is as under:-

2. The concurrent orders are challenged on the ground that there was compliance with the notification and particularly the condition therein of export from the factory of manufacturer or warehouse. Though Condition No. 2(b) of the Notification No. 19/2004-C.E. (N.T.), dated 6th September, 2004 requires that the excisable goods shall be exported within six months from the date on which it were cleared for export from the factory of manufacture or warehouse, Mr. Shah would submit that the condition is satisfied if the time is extended and it is capable of being extended further by the Commissioner of Central Excise. In the present case, the power to grant extension was in fact invoked. Merely because the extension could not be produced before the authority dealing with the refund/rebate claim does not mean that the claim is liable to be rejected only on such formal ground. The notification itself talks of a condition of this nature as capable of being substantially complied with. The authority dealing with the claim for refund/rebate could have itself invoked the further power and granted reasonable extension.

3. We are unable to agree because in the facts and circumstances of the present case the goods have been cleared for export from the factory on 31st January, 2005. They were not exported within stipulated time limit of six months. The application was filed with the Jurisdictional Deputy Commissioner of Central Excise/Assistant Commissioner of Central Excise much after six months, namely, 17th June, 2005 and extension was prayed for three months upto 31st October, 2005. The goods have been exported not relying upon any such extension but during the pendency of the application for extension. The precise date of export is 9th September, 2005. The Petitioners admitted their lapse and inability to produce the permission or grant of extension for further period of three months.

4. In such circumstances and going by the dates alone the rebate claim has been rightly rejected by the Maritime Commissioner (Rebate) Central Excise, Mumbai-III by his order which has been impugned in the writ petition. This order has been upheld throughout, namely, order-in-original dated 23rd December, 2009. The findings for upholding the same and in backdrop of the above admitted facts, cannot be said to be perverse and vitiated by any error of law apparent on the face of the record. There is no merit in the writ petition. It is accordingly dismissed.

9.1 Government observes that in the said case, the Hon'ble High Court of Judicature at Bombay, in order dated 15.09.2014, while interpreting the amplitude of condition 2(b) of Notification No 19/2004 dated 06.09.2004 held that the Maritime Commissioner (Rebate), had rightly rejected the rebate claim where permission granting extension could not be produced by the exporter. Inspite of the fact that the petitioner in that case was on a better footing as they had tried to obtain permission from the Commissioner for extension of time limit of six months, their Lordships did not extend any relief.

9.3 Government observes that the aforesaid High Court order dated 15.09.2014 (which is passed later to Hon'ble High Court Calcutta Order dated 19.09.2012 in Writ Petition No. 12337(W) of 2012 in case of M/s Kosmos Healthcare Pvt. Ltd. which is relied upon by the applicant) is a clear instance of treating Condition No. 2(b) of the Notification No. 19/2004-C.E. (N.T.), dated 06.09.2004 issued under Rule 18 of the Central Excise Rules, 2002 as a mandatory condition and certainly not a procedural requirement, and violation of which renders Rebate claims inadmissible.

10. Government also relies on GOI Order No. 390/2013-CX dated 17-5-2013 [2014 (312) E.L.T. 865 (G.O.I.)] in Re: Ind Swift Laboratories Ltd. involving identical issue wherein Government held as under:

> *9. Government notes that the Condition No. 2(b) of the Notification No. 19/2004-C.E. (N.T.), dated 6-9-2004 issued under Rule 18 of the Central Excise Rules, 2002 which reads as under :*
>
> *"The excisable goods shall be exported within six months from the date on which they were cleared for export from the factory of manufacturer or warehouse or within such extended period as the Commissioner of Central Excise may in any particular case allow :"*
>
> *As per the said provision, the goods are to be exported within 6 months from the date on which they are cleared for export from factory. The Commissioner has discretionary power to give extension of this period in deserving and genuine cases. In this case in fact such extension was not sought. It is obvious that the applicants have neither exported the goods within prescribed time nor have produced any extension of time limit permitted by competent authority. The said condition is a statutory and mandatory condition which has to be complied with. It cannot be treated as an only procedural requirement.*
>
> *10. In light of above position, Government observes that the rebate claim is not admissible to the respondents for failure to comply the mandatory condition of*

Notification No. 19/2004-C.E. (N.T.), dated 6-9-2004. The respondents have categorically admitted that goods were exported after six months' time. They stated that they were in regular business with the buyer and in good faith, they provide him a credit period which is variable from consignment to consignment. As the buyer has not made the payment of an earlier consignment, therefore, they were left no option but to stop the instant consignment. The contention of the respondents is not tenable for purpose of granting rebate in terms of said Notification No.19/2004-C.E. (N.T.), dated 6-9-2004. Since rebate cannot be allowed when mandatory condition 2(b) laid down in Notification No.19/2004-C.E. (N.T.) is not complied with. Government accordingly sets aside the order of Commissioner (Appeals) and restores the impugned Order-in-Original."

11. Government takes note of the fact that the condition 2(b) of Notification No. 19/2004-CE(NT) dated 06.09.2004 is not rigid and allows for some latitude to the exporter in that it provides them with the opportunity of approaching the jurisdictional Commissioner for extension of the prescribed time limit. In the instant case the applicant has submitted an application before the Competent Authority for condonation of delay form extension of time after an abnormal delay of around four years of the export and two years after the Revision Application was filed and quoting the judgement of the Hon'ble High Court Calcutta in the case of M/s Kosmos Healthcare Pvt Ltd vs. GOI supra has claimed that the extension can be granted post facto and is not required in advance. Government notes that the applicant has filed the application after an abnormal delay and without citing any reasons for the delay. Besides, there is nothing on record evidencing that the competent authority considered the application favourably and has granted permission for extension of time limit of six months. Thus, in the present case, there has been failure on the part of an established manufacturer in not obtaining permission from the Competent Authority for extension of time, which cannot be justified.

12. As regards the rejection of the rebate claims on the grounds that the Export Promotion copy of the Shipping Bills were not submitted, Government observes that Circular No 55/2016-Cus dated 23.11.2016 is relevant to the facts of the case. The said Circular was issued with the objective to promote ease of doing business by reducing use of paper and view to make cargo clearance easier and to introduce electronic messaging and paperless processing. Para 2(c) of the said Circular states as under:

"c. Shipping Bill (Exchange Control copy and Export Promotion copy)

After the Appraiser grants LEO (Let Export Order) in the system, printout of the Shipping Bill is generated by the system in triplicate i.e. (i) Customs copy (ii) Exporter's copy and (iii) Exchange Control Copy. The fourth copy namely the Export Promotion Copy is generated after submission of EGM. Further, with regard to Shipping Bill:

a. detailed copy of the Shipping Bill is not required by the Authorised Dealer. It is enough if a summary copy is printed.

b. CBEC provides copies of digitally signed Shipping Bills to DGFT.

c. The data of Shipping Bill is integrated with EDPMS (Export Data Processing and Monitoring System) of RBI.

In the light of the above, printing of the Exchange Control copy and Export Promotion copy of the Shipping Bill does not serve any useful purpose."

12.1 From the said Circular it is crystal clear that in view of the digitization of the customs related functions and availability of the proof of export on the website, the physical printouts of the Export promotion copy has been done away with as having limited purpose.

12.2 Government notes that from the records of the case it is evident that the applicant has submitted the photocopies of the shipping bills but the original authority has stated in the impugned order that the export copy of the shipping bill submitted with the claim were not legible.

12.3 Government observes that based on the Circular No 55/2016-Cus dated 23.11.2016, for ascertaining that the goods have been exported physical submission of the export promotion copy of the shipping bill is not mandatory. The verification of the genuineness of the export can be ascertained on the strength of electronic records and if need be on the basis of the endorsements of the customs on the export copy of the shipping bills and other relevant records.

12.4 In the instant case the applicant has submitted the export copy of the shipping bills which the adjudicating authority has claimed to be illegible and hence the clearance of goods could not be verified.

13. In view of the foregoing discussion and applying the rationale of case laws referred above, Government holds that the applicant is not entitled to rebate of duty

in respect of goods not exported within the period of six months of clearance from the factory, in violation of condition No. 2(b) of the Notification No. 19/2004-C.E. (N.T.), dated 06-09-2004 issued under Rule 18 of the Central Excise Rules, 2002. As regards the rejection in cases where the rebate claim for non filing of the Export Promotion copy of the Shipping Bills, Government remands the case back to the Original Adjudicating Authority for verification of the genuineness of the export on the basis of other relevant documents as discussed above.

14. In view of the above, Government modifies the Order-in-Appeal No. IND-EXCUS-000-APP-334-18-19 dated 30.11.2018 passed by the Commissioner (Appeals), CGST & CEX, Indore in cases where the rebate claim has been rejected for non filing of the Export Promotion copy of the Shipping Bills.

15. The Revision Application is disposed of on the above terms.

Shrawan 23/6/22

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

ORDER No.658/2022-CX (WZ)/ASRA/Mumbai DATED23.06.2022

To,
M/s VE Commercial Vehicles Ltd,
Plot No 52/1,52/2,
Indore Ratlam Highway
Village Baggad, Distt Dhar.

Copy to:

1) The Commissioner of CGST, Ujjain, 29 GST Bhavan, Administrative Area, Bharatpuri, Ujjain 456 010.
2) The Commissioner (Appeals), Indore, Manik Bagh Palace, Post Box No. 10, Indore 452014 (M.P.)
3) Sr. P.S. to AS (RA), Mumbai
4) Notice Board
5) Spare Copy.