REGISTERED
SPEED POST

सत्यमेव जयते

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.195/150/14-RA /1328 Date of Issue: 24.02.2021

ORDER NO. 75 /2021-CX (SZ)/ASRA/MUMBAI DATED 10.02.2021 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 Tulip Aromatics Enterprises (P) Ltd.,
AC 23/24, SIDCO Industrial Estate,
Thirumudivakkam, Chennai - 600 044.

Respondents : Commissioner of CGST, Chennai South, Chennai..

Subject : Revision Application filed, under Section 35EE of the Central Excise Act, 1944 against the Order-in-Appeal No. 10/2014 (M-IV) dated 05.02.2014 passed by the Commissioner of Central Excise (Appeals), Chennai.

ORDER

This Revision Application is filed by M/s Tulip Aromatics Enterprises (P) Ltd., AC 23/24, SIDCO Industrial Estate, Thirumudivakkam, Chennai - 600 044Gujrat (hereinafter referred to as "the Applicant") against the Order-in-Appeal No. 10/2014 (M-IV) dated 05.02.2014 passed by the Commissioner of Central Excise (Appeals), Chennai.

2. The issue in brief is that the applicant are engaged in manufacturing of 'Aromatic Compounds' falling under Chapter 33 of the Central Excise Tariff Act, 1985. The applicant had filed various rebate claims totally amounting to Rs.1,07,65,381/- (Rupees One Crores Seven Lakhs Sixty-Five Thousand Three Hundred Eighty-One Only) under Rule 18 of the Central Excise Rules, 2002 in respect of the duty paid on the goods exported by them during May-2007 to July – 2008. The rebate sanctioning authority rejected all the rebate claims on the grounds that the applicant not manufacturer and also the goods had not been exported by them but the same were exported by M/s International Flavours & Fragrances Ltd. Thus the applicant were ineligible for rebate of duty. The applicant filed an appeal before the Commissioner (Apeals), Chennai. The appellate authority vide Order in Appeal No. 85 to 88/2010 dated 26.11.2010 held that the applicant were entitled to claim rebate if the principal and the merchant exporter M/s IFF had no objection. In view of the said Order in Appeal, the adjudicating authority vide Order in Original No. 72/2011 dated 10.08.2011 sanctioned the rebate claims to the extent of Rs.81,56,426/- and rejected the rebate claims to the extent of Rs. 26,08,955/-

3. Being aggrieved by the Order in Original No. 72/2011 dated 10.08.2011, the applicant filed an appeal in respect of rejection of rebate claims to the extent of Rs. 17,92,956/- as against the total rejection of rebate amount of Rs. 26,08.955/- before the Commissioner of Central Excise (Appeals), Chennai. The appellate authority rejected the appeal filed by the applicant vide Order in Appeal No. 10/2014 (M-IV) dated 05.02.2014. The

appellate authority while passing the impugned order in appeal observed that:-

3.1 The rebate claims were rejected on the grounds that:-

a) triplicate copy of the ARE-1 not submitted;

b) duty payment details in respect of export consignment not reflected in the ER-1 return;

c) export procedure prescribed under Notification No. 19/2004-CE(NT) dated 06.09.2004 not followed in respect of exports of duty paid goods made from the deport of M/s IFF, the Principal.

d) exports where duty paid imported goods have been re-exported as such and in respect of exports made under CT-1 without payment of duty to the tune of RS. 8,15,999/-. The applicant stated that they had wrongly claimed rebate in such cases and they are not contesting the issue for Rs.8,15,999/-

3.2 The contention of the department that duty payment particulars were not reflected in the ER1 return and hence the applicant was not eligible for rebate on this count is also sustainable. The rebate can be allowed only if the duty payment particulars are separately reflected in the ER1 returns in terms of para 6 of the Circular No. 294/10/97-CX dated 30.01.1997.

4. Being aggrieved by the impugned Order in Appeal, the applicant filed the instant Revision Application on following grounds :-

4.1 Out of the 9 cases, they have submitted the triplicate copy of the ARE1 in respect of 6 case to the department and had provided the acknowledgements received in this regard.

4.2 As regards balance 3 cases, they have misplaced the triplicate copies of ARE1 and hence not able to furnish the same.

4.3 They have submitted shipping bills, bill of ladings and BRC in all the said 9 cases to the lower authority.

4.4 In respect of the rejection of rebate claims, the rebate sanctioning authority had not recorded any finding that the goods cleared for export are non duty paid goods. The decision to reject the rebate claim merely for the reason that triplicate copy of the ARE1 (procedural infirmities) is not available is not sustainable.

4.5 The applicant have placed reliance on following judgements in support of their contentions.

a) Barot Exports- 2006 (203) ELT 321 (GOI)

b) Sanke Industries Ltd- 2011 (268) ELT 125 (GOI)

c) SRF Polymers Ltd. – 2013 (295) ELT 159 (GOI)

4.6 The lower authorities had not disputed the exports made.

4.7 With regard to the rejection of rebate claims on the ground that the export clearance did not take place from the applicant's factory and instead the applicant had cleared the goods on payment of duty to the deport of M/s IFF and the goods were cleared for export from the said depot, the applicant placed reliance on the judgement in the case of M/s Sanket Industries.

4.8 They had demonstrated before the lower authority that the goods cleared on payment of duty to the depot of M/s IFF and the goods exported can be matched with product IPC number and batch number.

4.9 They had submitted al the evidences to correlate that the goods cleared from the factory had been exported from the deport of M/s IFF and the same was also not dispute by the authorities. The applicant relied upon the case of M/s Jubilant Organosys Ltd. Reported in 2012 (286) ELT 455 (GOI).

4.10 It is very clear from the lower authorities order itself that the goods have been cleared on payment of duty to the depot of M/s IFF and the goods have been exported therefrom. Hence, rejection of the rebate claim on this ground of non declaration of such duty payment particulars separately in the ER1 return is not sustainable. It could be observed from the para 6 of the Circular

No. 294/10/97- CX dated 30.01.1997 that no such condition has been prescribed for claiming rebate.

4.11 The appellate authority remanded the case vide Order in Appeal No. 85-88/2010 by holding that they are entitled for the rebate subject to furnishing of disclaimer certificate from the merchant exporter. The lower authority took up verification of the rebate claims afresh and asked for various details and proceeded to deny the rebate claims in dispute on above grounds. Thus the lower adjudicating authority has traversed beyond the show cause notice as well as the Order in Appeal.

5. A Personal hearing in this case was held on 28.01.2021. Shri Ganesh K.S. Iyer, Advocate attended the same on behalf of the applicant. He reiterated the submissions mad and submitted that OIA was received on 05.05.2014, therefore, there is no delay. Further he submitted that they should be allowed rebate, as the same cannot be denied for procedural lapses, if duty paid gods have been exported.

6. Government has carefully gone through the relevant case records available in case files, oral & written submissions and perused the impugned Order-in-Original and Order-in-Appeal.

7. The Government in the instant case notes that the rebate sanctioning authority had rejected the impugned rebate claims basically on following grounds :-

a) Non submission of triplicate copies of ARE-1s.

b) export procedure prescribed under Notification No. 19/2004-CE(NT) dated 06.09.2004 not followed in respect of exports of duty paid goods made from the depot of M/s IFF, the Principal.

8. Triplicate copy of ARE.1 not submitted. : Government observes that the applicant has contended that they had submitted triplicate copies in respect of 6 rebate claims out of total 9 rebate claims and have misplaced the triplicate

copies in respect of remaining 3 rebate claims. Government in this regard relies on GOI Order Nos. 612-666/2011-CX., dated 31-5-2011 in In Re: Vinergy International Pvt. Ltd., wherein GOI observed as under:

> *"**9.9** Regarding certification of duty payment on the goods, Government notes the furnace oil cleared on payment of duty on Central Excise Invoices by M/s. BPCL Refinery Mahul and stored in their own installation BPCL Sewree Terminal whose Central Excise Invoice contain the reference of corresponding Central Excise Invoice issued by BPCL Refinery. The Asstt. Commissioner Central Excise has mentioned that the applicant had received said goods from M/s. BPCL Sewree Terminal and duty of said goods was originally paid by M/s. BPCL (Refinery) Mahul. This factual position as stated in the order-in-original is not denied by the department. Further, M/s. BPCL Mahul has given Disclaimer Certificate in each case to the applicant certifying the duty payment on the said goods and stating that they have no objection to M/s. Vinergy International Pvt. Ltd. claiming Excise refund/rebate of duty paid on furnace oil supplied to foreign going vessels. The triplicate copy of ARE-I was required to be certified by Range Superintendent regarding duty payment and forwarded to Asstt. Commissioner Central Excise. The factual position has not been brought on record regarding certification by Central Excise Range Superintendent."*
>
> ***10.** In this regard, Govt. further observes that rebate/drawback etc. are export-oriented schemes and unduly restricted and technical interpretation of procedure etc. is to be avoided in order not to defeat the very purpose of such schemes which serve as export incentive to boost export and earn foreign exchange and in case the substantive fact of export having been made is not in doubt, a liberal interpretation is to be given in case of any technical breaches. In Suksha International v. UOI - 1989 (39) E.L.T. 503 (S.C.), the Hon'ble Supreme Court has observed that an interpretation unduly restricting the scope of beneficial provision is to be avoided so that it may not take away with one hand what the policy gives with the other. In the Union of India v. A.V. Narasimhalu - 1983 (13) E.L.T. 1534 (S.C.), the Apex Court also observed that the administrative authorities should instead of relying on technicalities, act in a manner consistent with the broader concept of justice. Similar observation was made by the*

Apex Court in the Formica India v. Collector of Central Excise - 1995 (77) E.L.T. 511 (S.C.) in observing that once a view is taken that the party would have been entitled to the benefit of the notification had they met with the requirement of the concerned rule, the proper course was to permit them to do so rather than denying to them the benefit on the technical grounds that the time when they could have done so, had elapsed. While drawing a distinction between a procedural condition of a technical nature and a substantive condition in interpreting statute similar view was also propounded by the Apex Court in Mangalore Chemicals and Fertilizers Ltd. v. Dy. Commissioner - 1991 (55) E.L.T. 437 (S.C.). In fact, as regards rebate specifically, it is now a title law that the procedural infraction of Notification, circular, etc. are to be condoned if exports have really taken place, and the law is settled now that substantive benefit cannot be denied for procedural lapses. Procedure has been prescribed to facilitate verification of substantive requirement. The core aspect or fundamental requirement for rebate is its manufacture and subsequent export. As long as this requirement is met other procedural deviations can be condoned. This view of condoning procedural infractions in favour of actual export having been established has been taken by Tribunal/Govt. of India in a catena of orders, including Birla VXL Ltd., 1998 (99) E.L.T. 387 (Tri), Alfa Garments - 1996 (86) E.L.T. 600 (Tri.), T.I. Cycles - 1993 (66) E.L.T. 497 (Tri), Atma Tube Products - 1998 (103) E.L.T. 207 (Tri.), Creative Mobus - 2003 (58) RLT 111 (GOI), Ikea Trading India Ltd., 2003 (157) E.L.T. 359 (GOI) and a host of other decisions on this issue.

11. *In view of above circumstances and keeping in view the existence of enough adduced evidence here in above, Government is of the considered opinion that what is compulsorily required here in the interest of justice is that the department should make positive efforts so as to confirm the basic ingredient of co-relatibility specifically when there is nothing on record to out rightly negate the claim of applicant that duty paid goods cleared from M/s. BPCL Sewree Terminal were exported. Government, thus holds that duty paid goods have been exported in this case and rebate claim is admissible to the applicant. Thus, the impugned orders-in-appeal are hereby set aside and case is remanded back to the original authority to sanction the rebate claim after verifying the duty deposit particulars as stated in ARE-I forms. A reasonable opportunity of hearing will be afforded to the applicants.*

8.2 The Government in the instant case observes that sufficient documentary evidence said to have been produced by the applicant consisting of the Excise Invoices, bill of lading, Shipping bill and BRCs from which would establish that the goods were exported and had a duty paid character. In order to qualify for the grant of a rebate under Rule 18, the mandatory conditions required to be fulfilled are that the goods have been exported and duty had been paid on the goods.

8.3 Hence, the production of triplicate copy of the ARE-1 form is a matter of procedural omission and non-submission of the same 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.

8.4 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 forms 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, there is no doubt whatsoever about duty paid nature of goods and the fact that goods have been exported.

8.5 The Government also 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 finds that ratio of aforesaid Hon'ble High Court order is squarely applicable to this case also. Further, from the impugned Orders-in-Original, Government observes that applicant had submitted the corroborative documents such as Excise Invoices, Shipping Bills, Bill of lading, BRCs etc. to the rebate sanctioning authority along with his claims. Further, the duty payment particulars in the instant case can be verified by the rebate sanctioning authority by obtaining the duty payment certificate from the jurisdictional range office.

8.7 In view of above, Government holds that when the bonafides of export can be proved on the basis of these documents, the rebate claim should not be withheld solely on the ground of non production of triplicate copies of ARE1s. The Government holds that ends of justice will be met if the case is remanded back to the original adjudicating authority for the limited purpose of verification of these claims with directions that he shall reconsider these claims for rebate on the basis of the aforesaid documents submitted by the applicant after satisfying itself in regard to the authenticity of corroborative documents and duty payment nature of goods. The applicant are also directed to submit all documents evidencing duty paid nature of the exported goods. Impugned Order in Appeal is modified to the above extent.

9. Export procedure prescribed under Notification No. 19/2004-CE(NT) dated 06.09.2004 not followed in respect of exports of duty paid goods made from the depot of M/s IFF, the Principal: -

On perusal of case records, Government observes that in the impugned orders-in-appeal it has been held that rebate claims were not admissible as the goods were not exported directly from factory or warehouse as laid down in condition 2(a) of Notification No.19/04-CE(NT) dated 6.9.04 and the relaxed procedure laid down in CBEC Circular No.294/10/97-Cx dated 30.1.97 relaxing the above said condition is not applicable to the said goods as the original authority failed to discuss the aspect of correlatibility. The applicant has filed these revision applications on grounds mentioned in para 3 above.

9.1 The department has contended that the applicant has not exported the goods directly from factory or warehouse and as such, violated the condition 2(a) of the Notification No.19/2004-CE(NT). The applicant has stated that the goods can be exported from factory or warehouse or any other place permitted by the CBEC by a general or special order. The CBEC vide Circular No.294/10/97-Cx dated 30.1.97 has prescribed the procedure for export of goods from place other than factory or warehouse. Applicants have stated that they have complied with requirement of the said circular dated 30.1.1997.

9.2 Government in the instant case relies on GOI's Order No.12-30/2012-CX dated 12.01.2012 Re-M/s Cipla Ltd. wherein Revisionary Authority observed as under :

"8. On perusal of case records, Government observes that department has mainly contested the impugned orders in appeal on the ground that instant rebate claims are not admissible as the goods were not exported direct from factory or warehouse as laid down in condition 2(a) of Notification No.19/04-CE(NT) dated 06.09.04 and the relaxed procedure laid down in CBEC Circular No.294/10/97-Cx dated 30.01.97 relaxing the above said condition is not applicable to the said goods as the same are not easily identifiable.

9. As against above, the respondent exporter herein has submitted that they neither had any intention nor had actually contravened any of the stipulated provision or procedure in its true sense. It is further stated that entire exercise was for the sole purpose of consolidation of export goods into proper full container load cargo for shipment through proper respective ports and all the export documents were accordingly synchronized with that of Central Excise clearance documents and the minor differences (if any) which remain non-harmonized were only of limited procedural errors category which may be excused and should not be used against their substantial claims of export benefit. The respondent exporter further gave his explanation to the said non-observance of stipulated provisions by way of providing his

explanation for the interpretation of relevant Notification/CBEC Circular. The respondent has not disputed the fact that goods were exported from a place other than factory of manufacture. But they are mainly contending that they have fulfilled all the procedural requirements of CBEC Circular dated 30.01.97.

10. Government notes that the admissibility of these rebate claims mainly depends on the compliance of provisions and procedure laid down in CBEC Circular dated 30.01.97. The relevant paras of said Circular are as under:

"8.1.....

8.8....."

11. In these cases, the ARE-I form prepared by both manufacturer and respondent M/s Cipla Ltd., contain the description of export goods, Batch/Mark No. duty paid details, Central Excise Invoice & Commercial Invoice No. The Shipping Bill has the Reference of relevant ARE-I Nos. The Part-II on reverse of ARE-I contains the Customs Certification about export of goods vide relevant Shipping Bills. Customs has certified that goods mentioned on ARE-I have been exported vide relevant Shipping Bill. At the same time Part-1 on reverse side of ARE-I has the endorsement of Central Excise Officers, which denotes that identity of goods and its duty paid character is established. The Central Excise Officers are required to verify the particulars of packages/goods lying /stored with the particulars given in ARE-I Form and if the Central Excise Officer is satisfied about identity of goods, its duty paid character and all the particulars given by the exporter in his application, he will endorse the ARE-I Form and permit export. In this case no contrary observation is made by Central Excise Officers and therefore, they have made endorsement in ARE-I after doing the requisite verification and allowed exports. In view of this position, Government finds no force in the contention of department that Central Excise Officers have not

made verification as required under CBEC Circular dated 30.01.97. Department has not stated as to what processing was done at the godown. Respondent party has also not claimed that they have done any processing at the godown. The certification by Central Excise Officers in ARE-I is certainly required to be done after verifying that goods are in original packing. The Central Excise Officers have nowhere pointed out that goods were not in original packing. So the contention of department that goods were not in original packing is not sustainable.

12. The respondent has submitted Index Chart /Co-relation Chart of Central Excise Invoices/ARE-I with that of Export Invoices / Shipping Bills and Lorry Receipt / GRN/ Delivery Challans. Government on careful study of said co-relation Chart, notes that the export goods have unique Batch number for each export item. The same export order No.is mentioned on the Central Excise Invoice and Commercial Export Invoice. The ARE-I has the detail of Central Excise Invoice and Commercial Invoice. The cross reference of ARE- 1 Invoice and Shipping Bills is available on ARE-I and shipping bills. The ARE-I duly certified by Central Excise Officers and Customs Officers leave no doubt that duty paid goods cleared from factory have been exported as there is no reason to doubt the endorsement of Customs Officers on the ARE-I Form. Moreover, the clear identification No. in the Form of Batch no. is available on each package and therefore exported goods are obviously identifiable In number of cases the triplicate copy of ARE-Iis verified by jurisdictional Central Excise Range Superintendent confirming the payment of duty. The remaining ARE-1s triplicate copy can be got verified even now.

13. It is also seen that the respondent exporter might have failed in taking proper prior permission / registration upto the full satisfaction of the applicant Commissioner herein but it is there that he always kept the jurisdictional Central Excise office well informed and has invariably taken signatures of Central Excise authorities as well as written permission from Customs authorities for the purpose of impugned

exports in a manner as above. Government observes that substantial compliance of provisions of above said Circular dated 30.01.97 has been done by the respondent as discussed above. Government also notes that although there are a catena of judgements that the substantial exports benefits should not be denied on mere procedural infractions until and unless there is some evidence to point out major violation to defraud the Government revenue, but for this case, Government wants to keep into consideration the below mentioned observations of the Hon'ble High Court of Gujarat, Ahmedabad vide order dated 21.07.2011 in SCA No. 4449 / 2011 in the matter of M/s Shakti Shipping International vs. UOI where similar case of export of goods as having not done directly from the factory of manufacture but goods procured / stored in distributor's (other) premises and jurisdictional Central Excise Officers have physically verified the goods and endorsed the ARE-1 form, and in similar situation Hon'ble High Court has held that after such substantial compliance and after such endorsement on relevant documents by the Central Excise / Customs Authorities, the exporter should not be deprived of consequential export benefits on the pretext of procedural lapses. In the said case Hon'ble High Court has set aside this Revisionary Authority's order dated 03.12.2011 and allowed the rebate claims.

14. In view of the above circumstances, Government finds its self conformity with the views of the Commissioner (Appeals) herein that the rebate claims of the respondent exporter herein are admissible on the goods exported are identified with the goods cleared from factory of manufacture on payment of duty. The respondent party herein has put forth Index and other detailed (photo copies) of various documents for establishing co-relation of impugned export goods. As this authority could not cross check the same w.r.t. the original records, so the actual verification of relevant documents maybe done by adjudicating authority at this level to confirm the genuineness and correctness of such documents".

9.2 Government observes in the present case that the applicant had submitted all required documents viz. Original / Duplicate copies of ARE-1, Excise Invoice, Shipping Bill, Bill of Lading etc. to the original authority and there is no doubt about export of goods. From the copies of export documents, Government observes that the details regarding quantity, net weight, gross weight, description etc. are exactly tallying impugned ARE-1 and shipping bills; that the Part-II on reverse of ARE-1 contains the Customs Certification about export of goods vide relevant Shipping Bills; that Customs has certified that goods mentioned on ARE-1 have been exported vide relevant Shipping Bill; that at the same time Part-I on reverse side of ARE-1 has the endorsement of Central Excise Officers (wherever triplicate copies are submitted), which denotes that identity of goods and its duty paid character is established. The Central Excise Officers are required to verify the particulars of packages/goods lying/stored with the particulars given in ARE-1 Form and if the Central Excise Officer is satisfied about identity of goods, its duty paid character and all the particulars given by the exporter in his application, he will endorse the ARE-1 Form and permit export. The cross reference of AREs-1 and Shipping Bills is available on AREs-1 and shipping bills. The AREs-1 duly certified by Central Excise Officers (in case of triplicate copies available) and Customs Officers leave no doubt that duty paid goods cleared from factory have been exported as there is no reason to doubt the endorsement of Customs Officers on the ARE-I Form.

9.3 Government also notes that there are catena of judgements that the substantial exports benefits should not be denied on mere procedural infractions until and unless there is some evidence to point out major violation to defraud the Government revenue. Further, Government has decided identical issues in a catena of its judgements, wherein it has been held that in case where the goods could not be exported directly from factory or warehouse in terms of the Notification No. 19/2004-C.E.(N.T.) dated, substantial compliance of aforesaid circular dated 30.01.1997 and resultant

export of duty paid goods, rebate claims have to be held admissible. In view of above position, Government holds that rebate claim is admissible to the applicants in these cases also.

10. In view of the above discussion and findings, the Government sets aside the impugned Order-in-Appeal 10/2014 (M-IV) dated 05.02.2014 passed by the Commissioner of Central Excise (Appeals), Chennai and directs the Original authority for verification of impugned rebate claims filed by the applicant with directions that he shall reconsider the claim for rebate on the basis of the above directions. The original adjudicating authority shall pass the order within eight weeks from the receipt of this order.

11. The Revision applications are allowed on above terms. .

Shrawan 10/02/21

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

ORDER No. 75/2021-CX (SZ)/ASRA/Mumbai DATED 10.02.2021.

To,
M/s Tulip Aromatics Enterprises (P) Ltd.,
AC 23/24, SIDCO Industrial Estate,
Thirumudivakkam, Chennai - 600 044.

Copy to:

1. The Commissioner of Central Goods & Service Tax, Chennai Outer Commissionerate, Newry Towers, No.2054, I Block, II Avenue, 12th Main Road, Ann Nagar, Chennai 600 040.
2. The Commissioner of Central 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, Pallavaram Division, No. 443, Guna Complex, III Floor, Anna Salai, Teynampet, Chennai -600 018.
4. Sr. P.S. to AS (RA), Mumbai
5. Guard file.

ATTESTED

अधीक्षक
Superintendent
रिवीजन एप्लीकेशन
Revision Application
मुंबई इकाई, मुंबई
Mumbai Unit, Mumbai