

SPEED POST



F.No. 195/208/2018-R.A.
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

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

Date of Issue 12/4/21.....

Order No. 84/2021-CX dated 9-4-2021 of the Government of India, passed by **Sh. Sandeep Prakash**, Additional Secretary to the Government of India, under Section 35 EE of the Central Excise Act, 1944.

Subject : Revision Application filed under section 35 EE of the Central Excise Act, 1944 against the Order-in-Appeal No. 353(SM)CE/JPR/2018 dated 01.08.2018 passed by the Commissioner (Appeals), Central Excise & CGST, Jaipur.

Applicants : M/s Rayban Sun Optics India Pvt. Ltd., Bhiwadi.

Respondent : Commissioner of CGST, Alwar.

ORDER

A revision application no. 195/208/2018-R.A. dated 05.11.2018 has been filed by M/s Rayban Sun Optics India Pvt. Ltd., Bhiwadi, (hereinafter referred to as the applicant) against the Order-in-Appeal no. 353(SM)/CE/JPR/2018 dated 01.08.2018, passed by the Commissioner (Appeals), Central Excise & CGST, Jaipur, wherein appeal filed by the applicant against the Order-in-Original no. 214/2017-18 (Refund) dated 04.10.2017 has been rejected.

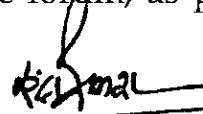
2. Briefly stated, the applicant are engaged in manufacturing of sunglasses and spectacle frames falling under chapter 90 of the First Schedule to the Central Excise Tariff Act, 1985. It appears that the applicant had not reversed/deposited the Cenvat Credit involved in the inputs written off by them in their Balance Sheet for the year 2000-2001. A show cause notice dated 18.05.2004 was issued demanding an amount of Rs. 16,89,669/- alongwith interest, in respect of Cenvat Credit not reversed/deposited, which was confirmed by the original authority vide order dated 21.10.2004. The amount demanded was appropriated from the amount already paid; however, the interest amount was not paid. Consequently, the Deputy Commissioner, Central Excise Division, Bhiwadi, vide Order-in-Original dated 21.10.2004 confirmed the demand of interest of Rs. 6,36,889/-, which was paid by the applicant herein, under protest, vide TR-6 challan No. 11 dated 06.01.2006. The appeal filed by the applicant against the Order dated 21.10.2004 was rejected by the Commissioner (Appeals) vide Order-in-Appeal dated 01.03.2005. The CESTAT which vide final Order No. A/380/2012-EX (BR) dated 30.03.2012, decided the matter in the applicant favour. The department moved an appeal before the Hon'ble Rajasthan High Court against the CESTAT's final order dated 30.03.2012, which was rejected by the Hon'ble High Court. The applicant, thereafter, filed an application for refund of the interest amount of Rs. 6,36,889/-, on 16.05.2017. This claim for refund was rejected by the original

authority, vide aforesaid order dated 04.10.2017 and the appeal thereagainst has also been rejected by the impugned Order-in-Appeal dated 01.03.2018.

3. Personal hearing was held on 09.04.2021, in virtual mode. Sh. B.L. Yadav, Consultant, appeared for the applicant and stated that the instant RA has been filed by mistake which is bonafide and, as per law, the appeal should be filed before CESTAT. He, accordingly, requested for permission to withdraw the RA with liberty to approach the appropriate forum. Dr. Garima Mali, AC reiterated the findings of Commissioner (Appeals).

4. The Government has examined the matter. The issue involved relates to refund of interest consequential to the order of CESTAT in respect of reversal/deposit of Cenvat Credit availed on the inputs written off. It is observed that the subject matter is not covered by the notified provisions of the first proviso to sub-section (1) of Section 35B of the Central Excise Act, 1944. Therefore, the matter cannot be agitated before the Government, in revision, under Section 35EE. The applicant has fairly admitted the position and requested for permission to withdraw with a liberty to approach the appropriate forum.

5. The revision application is, accordingly, dismissed as withdrawn, with liberty to approach the appropriate forum, as per law.



(Sandeep Prakash)

Additional Secretary to the Government of India

M/s Rayban Sun Optics India Pvt. Ltd.,
Plot No. 810-811, RIICO Industrial Area,
Bhiwadi District Alwar (Rajasthan)

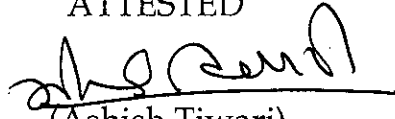
G.O.I. Order No. 84/21-CX dated 9-4-2021

Copy to: -

1. The Commissioner of Central Excise, "A" Block, Surya Nagar, Alwar - 301 001.
2. Commissioner (Appeals), Central Excise & CGST, Jaipur.
3. Sh. B.L. Yadav, Consultant, 113, 115, Sector 10, Gurugram - 122 001.
4. P.S. to A.S. (Revision Application).
5. Guard File.

6. Spare Copy

ATTESTED



(Ashish Tiwari)

ASSISTANT COMMISSIONER (R.A.)