

SPEED POST



**F. No. 195/133/2018—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. 85/21 - CX dated 12-4-21 of the Government of India, passed by Shri Sandeep Prakash, Additional Secretary to the Government of India, under Section 35 EE of the Central Excise Act, 1944 read with Section 83 of Finance Act, 1994.

Subject: Revision Application filed under Section 35 EE of the Central Excise Act, 1944 read with Section 83 of Finance Act, 1994 against the Order-in-Appeal No. 137(SM)/CE/JPR/2018 dated 22.03.2018 passed by the Commissioner (Appeals), Central Excise &CGST, Jaipur.

Applicant: M/s. Manu Tiling Co. Pvt. Ltd., Behror (Rajasthan).

Respondent: Commissioner of CGST, Alwar.

ORDER

A Revision Application No. 195/133/2018-R.A. dated 04.06.2018 has been filed by M/s Manu Tiling Co. Pvt. Ltd., Behror (hereinafter referred to as the applicant) against the Order-in-Appeal No. 137(SM)/CE/JPR/2018 dated 22.03.2018 passed by the Commissioner (Appeals), CGST, Jaipur, wherein the appeal filed by the applicant, against the Order-in-Original No. 15/R/2015-16 dated 28.03.2016 of the Assistant Commissioner, Service Tax Division, Alwar, has been rejected.

2. Brief facts of the case are that the applicant are engaged in manufacture/processing of natural sand stone falling under CETH 25162000 of the Central Excise Tariff Act, 1985. The applicant filed rebate claim under Notification No. 41/2012-ST dated 29.06.2012 for Service Tax, totally amounting to Rs. 1,41,302/-, paid in respect of Port Service, CHA and Outward Freight availed upto the port of export, for the goods exported during April 2015 to June 2015. The claim was rejected by the original authority vide Order dated 28.03.2016, on the grounds that (i) in terms of Notification No. 41/2012-ST, the rebate is admissible in case of the taxable services used beyond the place of removal whereas, in the present case, the said services were ostensibly used upto the place of removal i.e. port of export; (ii) the applicant did not submit the original documents, as per condition (3)(h) of the said notification, where a claim is upto 0.50% of the total FOB value; and (iii) as per details mentioned in Annexure-1 and Annexure-2 attached with the Claim and the documents

submitted by the applicant the rebate claim came to only Rs. 1,06,881/- and the applicant neither revised nor rectified the same. In appeal, the Commissioner (Appeals), referring to the Notification No. 01/2016-ST dated 03.02.2016 read with Section 160 of the Finance Act, 2016, found that the Notification No. 41/2012-ST had been amended retrospectively to permit rebate in respect of services which are used beyond the factory gate for export purposes. Accordingly, the Commissioner (Appeals) upheld the claim on this ground. However, the Commissioner (Appeals) found that the applicant had failed to submit the original documents and had been unable to substantiate the claim for Rs. 1,41,302/- and, accordingly, rejected the appeal.

3. The revision application has been filed, mainly, on the grounds that the applicant had shown the original documents to the jurisdictional Central Excise officer and were ready to produce the originals to any authority; that they did not receive the notices for personal hearing before the Commissioner (Appeals) and hence, they could not submit the original documents before him; that the documents substantiate the rebate claim for full amount of Rs. 1,41,302/- and not only for Rs. 1,06,881/- as alleged by the department; that the applicant has substantially fulfilled the conditions and procedure of the Notification and therefore, substantial benefit of rebate cannot be denied to them for procedural infraction.

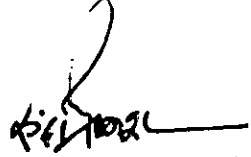
4. Personal hearings were granted on 05.03.2021, 19.03.2021 and 07.04.2021. However, no one appeared for the applicant and the

respondent department. No request for adjournment has also been received. Since, sufficient opportunities have been granted, the matter is taken up for disposal based on records.

5. The Government has examined the matter. It is not in dispute that submission of original documents is one of the conditions of the Notification No. 41/2012-ST dated 29.06.2012. The contention of the applicant is that the original documents are available with them and they are ready to produce the same before any authority and that they could not show the same before the Commissioner (Appeals) as the notices for personal hearing were not received by them. The Government observes that, as per condition of the notification, the requisite documents are to be submitted in original alongwith rebate claim where the amount of rebate sought is upto 0.50% of the total FOB value of the export goods. Therefore, the applicant ought to have submitted these documents in original alongwith the claim. Even otherwise, they have failed to produce the documents in original before the Commissioner (Appeals) ostensibly on the grounds that they did not receive the notices for personal hearing. Be that as it may, the applicant has not appeared before the Government as well, despite three opportunities being provided to them. Therefore, their claim of possession of original documents and their being ready to produce the same before any authority cannot be accepted. In absence of the documents and their verification, the contention that the documents produced substantiate the entire claim amount of Rs. 1,41,302/-, also

cannot be accepted. As such, the Government do not find any infirmity in the impugned order of Commissioner (Appeals).

6. The Revision Application is rejected.


(Sandeep Prakash)

Additional Secretary to the Government of India

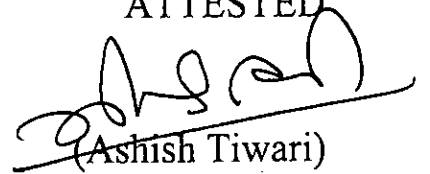
M/s. Manu Tiling Co. Pvt. Ltd.,
H-193 to H-202, RIICO Industrial Area,
Phase-II, Behror, District Alwar (Rajasthan).

G.O.I. Order No. 85/21-SX dated 9/4/2021

Copy to:-

1. Commissioner of CGST, Alwar.
2. Commissioner (Appeals), Central Excise & CGST, Jaipur.
3. PA to AS(Revision Application)
4. Spare Copy
5. Guard File

ATTESTED


(Ashish Tiwari)

Assistant Commissioner (R.A.)