

REGISTERED
SPEED POST



F.No. 195/183/2018-RA
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. 86/21-CX dated 12-4-2021 of the Government of India passed by Shri Sandeep Prakash, Additional Secretary to the Government of India, under Section 35EE of the Central Excise Act, 1944.

Subject : Revision Application filed under Section 35EE of the Central Excise Act, 1944 against the Order-in-Appeal No. 651(CRM)CE/JDR/2018 dated 26.06.2018 passed by the Commissioner(Appeals) Central Excise & GST, Jodhpur.

Applicant : M/s Raj Polymers & Chemicals, Jodhpur.

Respondent : Commissioner of CGST, Jodhpur

ORDER

A Revision Application No. 195/183/2018-RA dated 30.08.2018 has been filed by the M/s Raj Polymers & Chemicals, Jodhpur (hereinafter referred to as the applicant) against the Order-In-Appeal No. 651(CRM)CE/JDR/2018 dated 26.06.2018, passed by the Commissioner (Appeals), Central Excise & GST, Jodhpur, wherein the Order-in-Original No. 43/2017-R(ST) dated 06.03.2017, passed by the Assistant Commissioner, Central Excise and Service Tax Division, Jodhpur, has been upheld.

2. The brief facts of the case are that the applicant had filed rebate claim of Rs. 11,87,431/- in respect of central excise duty paid on export goods i.e. Guar Gum (Treated and Pulverised) under Rule 18 of Central Excise Rules, 2002. On scrutiny of the rebate claims, it was observed that the applicant had already availed the drawback claim for Rs. 11,87,431/- on Central Excise and Customs portion, at higher rate, at the time of export of the goods on the rates prescribed in Drawback Schedule 2014 for non-availment of CENVAT category. The applicant had, on the ARE-Is, declared that they were availing the facility of CENVAT under CENVAT Credit Rules, 2004. Hence, the rebate claims were rejected by the original authority vide Order-in-Original dated 06.03.2017 on the ground of mis-declaration of facts. Aggrieved, the applicant filed an appeal before the Commissioner (Appeals) which was rejected on the ground that the applicant was not eligible for rebate claim paid through CENVAT credit on exported

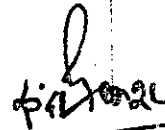
goods. The present revision application has been filed on the ground that due to clerical error, they struck off the wrong portion in the ARE-I and, in fact, they had not availed CENVAT credit during the relevant period and were eligible to claim higher rate of drawback which is available when CENVAT credit is not availed by the exporter.

3. Personal hearing was held on 30.03.2021, in virtual mode. Sh. Pradeep Jain, Chartered Accountant, appeared for the applicant and reiterated the contents of the revision application. He submitted that they had erroneously mentioned on the ARE-I that the CENVAT credit on inputs used in manufacture of export goods had been availed whereas it can be verified from the ER-I returns of the relevant period that the credit had not been availed. Therefore, they have only claimed higher rate of drawback and rebate of excise duty on exported goods, which does not amount to double benefit. He relied upon the Judgment of M/s ISCON Surgicals [2016 (344) ELT 108(Raj)] in this regard. None appeared for the respondent and no request for adjournment has been received. Hence, the matter is being taken for disposal on the basis of facts available on records.

4. The Government has examined the matter. The applicant has contended that due to clerical error, they had wrongly mentioned on the ARE-I that they were availing CENVAT credit whereas they were not availing it and hence were eligible to avail drawback at the higher

rate and rebate of excise duty, simultaneously. However, the Government observes that this contention of the applicant has not been found to be correct, in fact, by both the lower authorities. The original authority has clearly found that not only the applicant had indicated on the ARE-I that they were availing the CENVAT credit, they have also mentioned the debit entry number of the CENVAT Credit Register. They have, vide email dated 28.03.2021, submitted the copies of Excise Returns (ER-I) for the months of April, May and June, 2016, to claim that no CENVAT credit was availed. However, from the findings of original authority, it is evident that duty in respect of export goods was paid from the accumulated CENVAT credit. Obviously, the credit could have been accumulated in the CENVAT register only if it had been availed. Hence, the subject contention of the applicant is incorrect. The judgment of Hon'ble Rajasthan High Court in Iscon Surgicals (supra), therefore, does not support the case of the applicant in as much as in the case of Iscon Surgicals, CENVAT credit had not been availed.

5. In view of the above, the Government finds no infirmity in the orders of lower authorities rejecting the rebate claims under Rule 18 of Central Excise Rules, 2002. The revision application is, therefore, rejected.



(Sandeep Prakash)

Additional Secretary to the Government of India

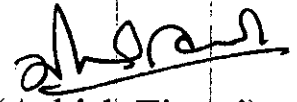
M/s Raj Polymers & Chemicals,
● S-272, F-1, MIA, 2nd Phase,
Basni, Jodhpur-342 005 (Rajasthan)

Order No. _ 86/21-Cx dated 12-4-2021

Copy to:

1. Commissioner of Central Goods & Service Tax, Jodhpur.
2. Commissioner (Appeals) Central Excise & GST, Jodhpur.
3. Assistant Commissioner, CGST, Division, Jodhpur.
4. PA to AS (RA)
5. Guard File.
6. Spare Copy

Attested



(Ashish Tiwari)

Assistant Commissioner (Revision Application)