

**SPEED POST**



F.No. 195/209/2018-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. 27/2021-CX dated 12-4-2021 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. LUD-EXCUS-001-APP-1733-18 dated 14.09.2018 passed by the Commissioner (Appeals), CGST Audit Commissionerate, Ludhiana.

Applicants : M/s Gardex, Unit-IV, Jalandhar.

Respondent : Commissioner of CGST, Jalandhar.

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**ORDER**

A revision application no. 195/209/2018-R.A. dated 26.11.2018 has been filed by M/s Gardex, Unit-IV, Jalandhar (hereinafter referred to as the applicant) against the Order-in-Appeal no. LUD-EXCUS-001-APP-1733-18 dated 14.09.2018, passed by the Commissioner (Appeals), CGST Audit Commissionerate, Ludhiana whereby the appeal filed against the Order-in-Original no. Rebate/242-245/AC/Jal-II/2017 dated 28.03.2017 of the Assistant Commissioner, Central Excise, Division-II, Jalandhar has been rejected.

2. Briefly stated, the applicant are engaged in the export of excisable goods falling under Chapter 82 of the First Schedule to the Central Excise Tariff Act 1985. They filed four input stage rebate claims, totally amounting to Rs. 6,97,790/-, under Rule 18 of the Central Excise Rules, 2002, read with Notification No. 21/2004 dated 06.09.2004. The applicant had exported Axe with Fibre Glass Handle (FGH) of 34" length. The department contended that the applicant had got the Input-Output Ratio fixed under SION, in terms of Notification No. 21/2004 dated

06.09.2004, for FGH 36" and not for FGH 34". Therefore, the input stage rebate was not admissible in respect of Central Excise duty involved in FGH 34". The original authority vide order dated 28.03.2017, accordingly, rejected the rebate claim amounting to Rs. 3,25,275/- , out of the total rebate claim of Rs. 6,97,790/-, and also imposed a penalty of Rs. 2,500/- under Rule 27 of the Central Excise Rules, 2002, on the applicant. In appeal, Commissioner (Appeals) upheld the order of the original authority.

3. The revision application has been filed, mainly, on the ground that the description of the exported goods mentioned in ARE-2 was "Axe with Fibre Glass Handle 3.5 Lbs" and there was no mention of the length of the product; that the FGH of 36" length can always be used for manufacture of Axe with FGH of 34" length as a part of the handle gets lost during processing/manufacturing, i.e., the input required would necessarily of higher length; that they never purchased FGH of 34" length and therefore, their contention that FGH of 36" length were used to manufacture FGH of 34" length is correct.

4. Personal hearing was held on 09.04.2021, in virtual mode. Sh. Ravi Chopra, Advocate appeared for the applicant and reiterated the contents of the RA. He highlighted that though AXE with Fibre Glass Handle of 34" had been exported, they had used the declared input i.e. Fibre Glass Handle of 36", cut it to size and fixed it to export product. It has also been certified by the CA that Handle of 34" has not been purchased or procured by them. No one appeared for the respondent department. No request for adjournment has also been received. Therefore, the case is taken up for disposal based on records.

5. The Government has examined the matter. Admitted facts are that Axe with Fibre Glass Handle of 34" length were exported whereas Input-Output Ratio, as per SION, was got fixed for FGH 36", as inputs. Department's contention is that input stage rebate shall be available only with respect to Axe with FGH of 36". On the other hand, the contention of the applicant is that they had received the export order for Axe with FGH of 34" length and processed FGH of 36" to manufacture the export product. The Government finds that the contention of the applicant is

acceptable, specifically as their contention that they had not purchased FGH of 34" (to be used in the Axe exported) has not been contradicted by the lower authorities. Thus, the conclusion is inescapable that the FGH of 36" length were cut to size i.e. 34" length and used in the Axe which were exported. As such, the orders of the lower authorities cannot be sustained.

6. In view of the above, the revision application is allowed with consequential relief.



(Sandeep Prakash)

Additional Secretary to the Government of India

M/s Gardex , Unit-IV,  
Village Bistrampur, Tehsil Kartarpur,  
District Jalandhar – 144 601.

G.O.I. Order No. 87/21-CX dated 12-4-2021

Copy to: -

1. The Commissioner of CGST, Jalandhar, GST Bhawan, "F"-Block, Rishi Nagar, Ludhiana (Punjab)-141 001
2. Commissioner (Appeals), CGST Audit Commissionerate, Ludhiana.
3. Sh. Ravi Chopra, Advocate, 444, G.T.B. Nagar, Jalandhar (Punjab)- 144 003.
4. P.S. to A.S. (Revision Application).
5. Guard File.
6. Spere copy.

ATTESTED  
  
(Ashish Tiwari)

ASSISTANT COMMISSIONER (R.A.)