



**REGISTERED  
SPEED POST**

F.No. 195/457 & 458/11-RA  
GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(DEPARTMENT OF REVENUE)

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

Date of Issue. 10/7/13

Order No. 875-876/13-Cx dated 09.07.2013 of the Government of India, passed by Shri D. P. Singh, Joint Secretary to the Government of India, Under Secretary 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. SA/11 & 12/Vapi/2011 dated 03.03.2011 passed by Commissioner of Central Excise (Appeals), Vapi

Applicant : M/S Sanmar Speciality Chemicals Ltd., Dadra.

Respondent : Commissioner of Central Excise, Customs & Service Tax, Vapi.

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**ORDER**

These revision applications have been filed by the applicant M/s Sanmar Speciality Chemicals Ltd., Dadra against orders-in-appeal No. SA/11 & 12/Vapi/2011 dated 03.03.2011 passed by Commissioner of Central Excise (Appeals), Vapi with respect to Order-in-Original passed by Assistant Commissioner of Central Excise & Customs, Division-I, Silvassa.

2. Brief facts of the case are that applicant had exported the excisable goods and filed two rebate claims amounting to Rs. 2,10,585/- and Rs. 2,10,585/- respectively under the provisions of Rule 18 of Central Excise Rules, 2002 to the jurisdictional Deputy Commissioner. The jurisdictional Deputy Commissioner, while sanctioning of the claims found that the value declared in ARE-1(s) was more than the value declared in the shipping bill(s). He therefore sanctioned rebate claims equal to the duty paid on the value mentioned in Shipping Bills in cash. The rebate claims of Rs. 1,83,964/- in each case in respect of duty payable on the value declared in Shipping Bills were sanctioned and remaining amounts i.e. 26,621/- + 26,621/- in both the cases were allowed to be credited in the Cenvat Credit account of the applicant.

3. Being aggrieved by the said Order-in-Original, applicant filed appeal before Commissioner (appeals) on the ground the same their unit is closed and hence, they should refunded the amount in cash and not in form of Cenvat Credit. Commissioner (appeals) rejected their appeal.

4. Being aggrieved by the impugned Orders-in-Appeal, the applicant has filed these revision applications under section 35EE of Central Excise Act, 1944 before Central Government on the following grounds:-

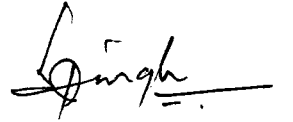
- 4.1 The Commissioner of Central Excise (Appeals), Vapi failed to appreciate that the applicants are eligible to get refund as there is no dispute on the fact that the applicant has paid duty on the CIF value which is not required. It is a well settled principle of law.
- 4.2 The Commissioner of Central Excise (appeals), Vapi failed to appreciate that the business of the applicant has transferred. The application for cancellation itself is a proof that the applicant is no longer in the production and hence denial of rebate on the ground that there is no evidence for closure of business cannot be justified.
- 4.3 The Commissioner of Central Excise (appeals), Vapi failed to appreciate that Notification No. 19/2004-CE(NT) dated 06.09.2004 issued in terms of Rule 18 of Central Excise Rules, 2002 permits the rebate of the whole of duty paid on all excisable goods.
5. Personal hearings was scheduled in this case on 04.03.2013 and 27.06.2013. Hearing held on 04.03.2013 was attended by Shri Manoj V.S. advocate on behalf of the applicant who reiterated the grounds of revision application. Nobody attended hearing on behalf of department on any of these dates.
6. Government has carefully gone through the relevant case records and perused the impugned order-in-original and order-in-appeal.
7. Government notes that in the said cases, the FOB value declared on the Shipping Bills was accepted on transaction value in terms of section 4 of Central Excise Act, 1944 by the lower authorities. As such duty payable on said value was rightly allowed to be rebated under Rule 18 of Central Excise Rules, 2002 read with Notification No. 19/2004-CE(NT) dated 06.09.2004. Applicant's

contention that recredit allowed in their Cenvat Credit account of Rs. 26,221+26,221 may be allowed as cash rebate since their unit is closed, can not be accepted since the rebate claim of Rs. 1,83,964 + Rs.1,83,964/- was held admissible in this case and same was paid them. The balance amount was not admissible as rebate claim and therefore cash rebate can not be allowed.

8. In view of above position, Government do not find any infirmity in the impugned Orders-in-Appeal and therefore upholds the same.

9. The revision applications are rejected being devoid of merits.

10. So, ordered.



(D P Singh)

Joint Secretary (Revision Application)

M/s Sanmar Speciality Chemicals Ltd.,  
(Intec Polymers Division)  
Survey No.130/1, Jayantbhai Desai Marg,  
Village – Dadra

(Attested)




(भागवत शर्मा/Bhagwat Shama)  
सहायक आयुक्त/Assistant Commissioner  
C B E C - O S D (Revision Application)  
वित्त मंत्रालय (राजस्व विभाग)  
Ministry of Finance (Deptt. of Revenue)  
भारत सरकार/Govt. of India  
दिल्ली / New Delhi

G.O.I. Order No. 875-876 /2013-Cx dated 09.07.2013

Copy to:-

1. Commissioner of Central Excise, Customs & Service Tax, Vapi, 4<sup>th</sup> Floor, Adarshdham Building, Vapi Daman Road, Vapi – 396191.
2. The Assistant Commissioner of Central Excise and Customs, Division-I, Silvassa,
3. The Commissioner (Appeals), Central Excise Customs & Service Tax, Vapi, 4<sup>th</sup> Floor, Adarshdham Building, Vapi Daman Road, Vapi – 396191.
4. Shri V.S. Manoj, Advocate, Flat No. 3, 1<sup>st</sup> Floor, No. 9, (New-21), Thanikachalam Road, T. Nagar, Chennai.
5. PS to JS(RA)
6. Guard File
7. Spare Copy.

  
10/5  
(Bhagwat P. Sharma)  
OSD(RA)

