



REGISTERED
SPEED POST

F.No.195/630-639/12-RA
195/641-662/12-RA
195/663-680/12-RA
195/841/12-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.....16/7/13

Order No.878-928/13-cx dated 11-07-2013 of the Government of India, passed by Shri D. P. Singh, Joint 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. passed by Commissioner of Customs and Central Excise, (Appeals-I) & Service Tax, Hyderabad as detailed in table of para 1 of this order.

Applicant : Dr. Reddys Laboratories Ltd., Central Warehouse, Plot No. 105, Bollaram Village, Jinnaram Mandal, Mutrujpalli (PO), Medak District – 502325, Andhra Pradesh

Respondent : Commissioner of Central Excise, Hyderabad-I.

ORDER

This revision application is filed by the Dr. Reddy's Laboratories Ltd. (DRL), Central Warehouse, Plot No. 105, Bollaram Village, Jinnaram Mandal, Mutruj palli (PO), Medak District – 502325., Andhra Pradesh against the Orders-in-Appeal passed by the Commissioner of Customs, Central Excise & Service Tax (Appeals I & III), Hyderabad with respect to Orders-in Original passed by the Deputy Commissioner of Central Excise, Division-B, Hyderabad-I as detailed in following table:

S. No	RA No.	Order-in-Appeal No. & Date	Rebate sanctioned Amt. (Rs.)	Rebate rejected Amt. (Rs.)
1	2	3	4	5
1.	195/630-639/12-RA-Cx.	49 to 54/12 (H-I) (D) CE & 74 to 77/2012 (H-I) CE dtd. 24-05-2012	2347454	660821
2.	195/641-662/12-RA-Cx.	24 to 44/2012 (H-I) CE & 02 to 22/12 (H-I) CE dtd. 16-03-2012	4301943	44394849
3.	195/663-680/12-RA-Cx	52 to 65/12 (H-I) CE & 29 to 46/12 (H-I) (D) CE dtd. 30-03-2012	4164652	5634353
4.	195/841/12-Cx	105/12 (H-I) CE dtd. 31-07-2012	0	43450731

2. Brief facts of the case are that applicants were permitted by the Commissioner of Central Excise, Hyderabad-I, Commissionerate, Hyderabad vide letter C No. IV/16/04/09-CE(Tech) dated 18.03.2009 to export bulk drugs obtained from various other manufactures (who removed the said goods on payment of duty) from their premises located at Plot 105, Bollaram Village, Jinnaram Mandal, Medak Dist., which was registered as First Stage Dealer in terms of provisions of Central Excise Rules, 2002. They had exported bulk drugs after raising the ARE-I form and under the supervision of jurisdictional Range officer under claim of rebate in terms of Rule 18 of Central Excise Rules. The applicant filed rebate claims before the ACCE Div.-B Hyderabad-I Commissionerate having jurisdiction over the said dealer premises.

2.1 The ACCE, in cases mentioned at Sr. No. 1 to 3 of the above table sanctioned part rebate claims and rejected part rebate claims on the ground that triplicate copy of ARE-I containing duty payment / verification was not received from jurisdictional range officer. ACCE has rejected to total rebate claim in some case at Sr. No. 1 to 3. At the same time ACCE has rejected all claims in cases at Sr. No. 4 of above table on the ground that proper authority to sanction the rebate claim was either jurisdictional ACCE having jurisdiction over factory of manufacture or the maritime Commissioner.

3. Being aggrieved with these orders-in-original both applicant as well as department filed appeals before Commissioner (Appeals).

3.1 Grounds of appeal filed by applicant M/s DRL.

3.1.1 The rejection of subject rebate claims on the ground that the confirmation of duty payment in respect of ARE-1 relating to the subject rebate claims had not been received from the Superintendent having jurisdiction over the manufacturers from whom the subject duty paid goods were procured was not justified, since it was the failure on the part of the office of the rebate sanctioning authority to get the required confirmation, from Superintendent having jurisdiction over the manufacturers from whom the rebate duty paid goods were procured, regarding the duty payment made on the goods covered by the relevant ARE-1 which were exported by them from their dealers premises.

3.1.2 If the rebate sanctioning authority had been directed to ensure the receipt of the triplicate copy of ARE-1 before sanctioning the rebate, it was the responsibility of the rebate sanctioning authority to see that the said copies of ARE-1 were received duly certified.

3.1.3 Rebate being a substantive right, could not be denied to them for the negligence on the part of the Department Officer is not confirming the duty payment made on the goods exported.

3.2 Grounds of appeal filed by department against orders-in-appeal mentioned at Sr. No. 1 to 3 of table :-

3.2.1 DRL had exported from their premises registered as dealer, the goods obtained from various manufacturers, falling outside the jurisdiction of the Assistant

Commissioner, Division-B, Hyderabad-I Commissionerate. Hence, as per para 3(b) (ii) of the Notification No. 19/2004-CE(NT) dated 6.9.2004, the DRL were required to file the rebate claim before the AC/DC having jurisdiction of the manufacturer of the exported goods or with the Maritime Commissioner.

3.2.2 DRL preferred the claims before the AC having jurisdiction over the premises registered as dealer and the original authority (Asstt. Commissioner, Division-B) had passed the subject orders-in-original without jurisdiction, hence were not proper and legal.

3.2.3 The original authority had erroneously sanctioned entire amount claimed by DRL instead of restricting the rebate only to the extent of duty payable on FOB value (on Section 4 of CEA value).

3.3 Commissioner (Appeals) after considering all the submissions, passed the following order :-

3.3.1 The contention of the DRL that they followed the procedures / conditions prescribed in the Notification/Circular/Commissioner's Permission letter is not totally correct.

3.3.2 The receipt of Triplicate copy of ARE-1 with necessary endorsement is an essential document for sanction of rebate.

3.3.3 The sanction of rebate by the AC/DC, Division-B, Hyderabad-I Commissionerate vide the impugned orders, was erroneous as the same were passed without having the jurisdiction and without verifying certain aspects, in view of the procedure/conditions prescribed under Notification No. 19/2004-CE(NT) dated 6.9.2004 as amended, as discussed elaborately above.

3.3.4 the rebate in cash should be restricted to the amount paid in proportion to the FOB value. However, this issue has no relevance in the subject appeals since the sanctioning rebate was itself totally erroneous inasmuch as the original authority was neither the AC/DC having jurisdiction over the manufacturer of the goods exported nor was the Maritime Commissioner.

Accordingly Commissioner (Appeals) set aside all the orders-in-original pertaining to cases at Sr. No. 1 to 3 of above table and upheld the impugned orders-in-original pertaining in cases mentioned at Sr. No.1 of table in para 1.

4. Being aggrieved with the impugned orders-in-appeal (Sr. No. 1 to 4 of table) applicant has filed these revision applications under section 35 EE of CEA 1944 before Central Government on the following common grounds :-

4.1 Their procurement of duty paid goods from various manufacturers and its export from their dealer's premises under claim for rebate was not disputed by the department. While exporting the goods they followed the procedure prescribed by the Board in Circular No. 294/10/97-CX dated 20.01.1997 which was evident from the verification report of the Range Superintendent, Bollaram-II Range who is the jurisdictional range officer of the applicants. The rejection (part or full) of the subject rebate claims on the ground that confirmation of the duty payment in respect of ARE-1's covered in the rebate claims had not been received from the jurisdictional range officer of the manufacturer from whom the subject duty paid goods were procured was not justified, since it was the failure on the part of the office of the Rebate Sanctioning Authority in getting the required duty payment confirmation from the JRO of the Manufacturer of the duty paid goods.

4.2 The applicants contention that in case duty payment had not been made by the manufacturer on such goods appropriate action would be taken by the departmental officers against such manufacturers for non-payment of duty in respect of the goods cleared by them. The applicants also confirmed that they made the payment to the respective manufacturers in respect of the goods procured and exported by them. The non-receipt of the triplicate and quadruplicate copies of ARE1s from the JROs of the manufacturers was due to negligence of the JROs and the applicants were not having any control over them. If the rebate sanctioning authority had been directed to ensure the receipt of the triplicate copy of the ARE-1 before sanctioning the rebate, then obviously it is the responsibility of the rebate sanctioning authority to ensure that the said copies of ARE-1 were received in time duly certified. Rebate being a substantive right, could not be denied to them for the negligence on the part of the departmental officer in not confirming the duty

payment made on the goods exported and finally requested the Commissioner (Appeals) to set aside the impugned orders as detailed in the table in OIA.

4.3 The applicants also submit that the Hon'ble Commissioner (Appeals) erred in not considering the submissions made by them with regard to the issue of jurisdiction to file the rebate claims, that

4.3.1 We procure goods on payment of duty from various manufacturers and export from our premises under claim for rebate from our premises by following the procedure prescribed under CBEC circular No. 294/10/97-CX dated 30.01.1997 and the permission accorded by the Commissioner of Customs and Central Excise, Hyderabad-I Commissionerate vide letter in C. No. IV/16/04/2009-Tech dated 18.03.2009 and accordingly the rebate claims are/were being filed before our jurisdictional Assistant Commissioner of Central Excise, Hyderabad-B Division. Accordingly, all the rebate claims filed by us from the beginning till date are being sanctioned fully or partly after due verification as per the procedure prescribed vide Board circular cited supra.

4.3.2 Now raising the issue of jurisdiction and on the basis of the above, contending that we should have filed the rebate claim before the jurisdictional Asstt./Deputy Commissioner of Central Excise having jurisdiction over the original manufacturer of the duty paid goods and not with our jurisdictional Asstt./Deputy Commissioner of Central Excise, Hyderabad-B Division is not proper. Notification No. 19/2004-CE(NT) dated 6.9.2004 as amended issued under Rule 18 of CER 2002 prescribing the procedure with respect to export of goods on payment of duty under claim for rebate with respect to goods exported directly from the factory or the manufacture or the warehouse as detailed below. As per condition 2(a) of Notification No. 19/2004-CE(NT) dated 6.9.2004.....

that the excisable goods shall be exported after payment of duty directly from a factory or warehouse, except as otherwise permitted by the Central Board of Excise and Customs by a general or special order.

4.3.3 Accordingly, CBEC issued a circular bearing No. 294/10/94-Cx dated 30.01.1997 permitting export of duty paid goods from any other place other than

the exports from factory or warehouse by waiving the condition of direct exports from factory or warehouse and also prescribed a special procedure to be following while exporting the duty paid goods from a place other than factory of manufacture or warehouse. As per condition 3(b)(i) of Notification No.19/2004-CE(NT) dated 6.9.2004, rebate claim to be presented for direct exports from a factory or warehouse.....

(i) Claim of the rebate of duty paid on all excisable goods shall be lodged alongwith original copy of the application to the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise having jurisdiction over the factory of manufacture or warehouse or, as the case may be, the Maritime Commissioner;

4.3.4 The procedure prescribed by the said circular No. 294/97 is specially for the exports of duty paid goods effected from a place other than the factory of manufacture or warehouse and according to point No. 8.7 of the circular, the claim for rebate, together with the proof of due exportation is filed with the Assistant Commissioner of Central Excise before the expiry of period specified in Section 11B of the Central Excise Act, 1944.

4.3.5 With the above, it is implied and very clear that the rebate claim in case of direct exports from factory of manufacture or warehouse required to be submitted before the jurisdictional Assistant/Deputy Commissioner of Central Excise or the Maritime Commissioner as the case may be only, and for the exports of duty paid goods effected from any other place, then the claim to be submitted before the jurisdictional Asstt./Deputy Commissioner of Central Excise of such other place (mentioned as Assistant Commissioner in the circular as stated above).

4.3.6 Even assuming but without admitting that the claim should be filed before the jurisdictional Assistant or Deputy Commissioner of the factory of manufacture, point No.6 of the circular clearly states that other technical deviations not having revenue implications, may also be condoned and this provision will cover this purported technical lapse of filing the claim before the jurisdictional Assistant or Deputy Commissioner of the dealer instead of jurisdictional Assistant or Deputy

Commissioner of the factory of manufacture / warehouse since, this so called lapse is not having any revenue implications.

4.3.7 Further, point 9 of the circular also very clearly states that "the above procedure will be subject to the provision of Rule 12 of Central Excise Rules, 1944, the notification issued thereunder and other instructions issued by the Board except as specifically provided for, herein before." This itself is evident that the procedure prescribed in this circular is specially for the exports effected from the place other than from the factory of manufacture or warehouse and hence we submit that our filing the rebate claim before our jurisdictional Assistant Commissioner (Hyderabad-B Division) is very well in order.

4.4 They also placed reliance on the decision of the Hon'ble Revisionary Authority in an identical issue in the case of R.S. Impex International vs. Collector of Central Excise 1993 (67) ELT 1007 (GOI) wherein it was held that the correct jurisdiction of filing rebate claim for the duty paid goods exported form other than the place of manufacture / warehouse is the jurisdictional Assistant / Deputy Commissioner of Central Excise of the place of export and not the JAC of the manufacture. This itself is evident that our filing rebate before Hyderabad-B Division is the correct jurisdiction.

4.5 Without prejudice to our contention that our filing rebate claims before the Assistant Commissioner of Central Excise, Hyderabad-B Division i.e. having jurisdiction over the premises/place from where the goods have been exported is in order, having sanctioned rebate in respect of claims filed, after detailed examination of the issue involved, now proposing recovery of such rebate amount already sanctioned only on the ground of jurisdiction is not justified and in this regard we place reliance on the decision of the Hon'ble Revisionary Authority in the case of Reliance Industries Ltd. 2012 (275) ELT 277 (GOI) wherein it was held that applicant cannot be penalized for the lapse of departmental authorities. In view of this, impugned order set aside and order-in-original restored – Rule 18 of Central Excise Rules, 2002, where the rebate was sanctioned by original authority except for lack of jurisdiction.

4.6 Applicants respectfully submit that the Hon'ble Commissioner (Appeals) did not consider the decisions of the Hon'ble High Court / Hon'ble Tribunal / Hon'ble Revisionary Authority, the gist of the above decisions in spite of having been explained to him in detail and how the said decisions are applicable to the instant case.

- (a) Omkar Exports Vs. Union of India -2009 (240) ELT 355 (Gujarat)
- (b) TAFE Limited vs. CCE, Chennai-2008(227) ELT 80 (Tri-Chennai)
- (c) In RE: Reliance Industries – Before Government of India, Ministry of Finance, (Department of Revenue – Revisionary Authority) – 2012 (275) ELT 277 (GOI)
- (d) RE: Barot Exports – GOI (Revisionary Authority) 2006(203) ELT 321(GOI)
- (e) R.S. Impex International vs. Collector of Central Excise – 1993 (67) ELT 1007(GOI).

5. Personal hearing scheduled in these cases on 5.3.2013 and 26.6.2013 was attended by Shri S. Suryanarayan, Director and Shri V. Satyanarayan Reddy Assistant Director on behalf of the applicant company. They reiterated the grounds of revision application. Nobody attended hearing on behalf of the respondent department.

6. Government has considered all relevant case records, oral/written submissions and perused the impugned orders-in-original as well as orders-in-appeal.

7. In these cases, applicant has challenged the impugned orders-in-appeal mainly on the ground that as per permission granted by Commissioner of Central Excise Hyderabad vide letter dated 18.03.2009 and CBEC circular dated 30.01.1997, the ACCE having jurisdiction over Registered dealer's premises is the rebate sanctioning authority, that non-receipt of triplicate copy of ARE-1 duly certified by Superintendent, Central Excise Incharge of factory or manufacture, being a lapse on the part of department cannot be reason to reject substantial benefit of rebate claim when all the conditions and procedure of notification are complied with. Government notes that, in these cases, mainly following two issues are to be decided :-

(a) Whether the proper authority for sanction of said rebate claims is as specified in para 3(b) of Not. No. 19/2004-CE(NT) dated 6.9.04 or in CBEC circular No. 294/10/97-Cx dated 30.01.1997.

(b) Whether rebate claim can be sanctioned in the absence of triplicate copy of ARE-1 form duly certified by jurisdictional Superintendent Central Excise with respect to payment of duty particulars.

8. Government notes that as per rule 18 of CER 2002, Central Government may when any goods are exported, by notification, granted rebate of duty paid on such excisable goods or duty paid on materials used in the manufacture or processing of such goods and the rebate shall be subject to such conditions or limitations, if any, and fulfillment of such procedure as may be specified in the notification.

8.1 The conditions limitation and procedure for claiming rebate of duty paid on exported goods is prescribed in the Not. No. 19/04-CE(NT) dated 6.9.2004. Para 3(b) of said notification is regarding presentation of rebate claim to the proper authority for sanction in accordance with law. For the sake of proper understanding of the issue, para 3(b) of Not. No. 19/04-CE(NT) dated 6.9.2004 is extracted as under :-

" (b) Presentatin of claim for rebate to Central Excise:-

- (i) Claim of the rebate of duty paid on all excisable goods shall be lodged along with original copy of the application to the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise having jurisdiction over the factory of manufacture or warehouse or, as the case may be, the Maritime Commissioner.
- (ii) The Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise of Central Excise having jurisdiction over the factory of manufacture or warehouse or, as the case may be. Maritime Commissioner of Central Excise shall compare the duplicate copy of application received from the officer of customs with the original copy received from the exporter and with the triplicate copy received from the Central Excise Officer and if satisfied that the claim is in order, he shall sanction the rebate either in whole or in part.

The provisions of said para clearly stipulate that rebate claim shall be lodged to the ACCE or DCCE having jurisdiction over factory of manufacture or warehouse or the Maritime Commissioner. There is no ambiguity in the language of said para.

8.2 Further in para 8.1 of Part-I of Chapter 8 of CBEC Central Excise Manual of Supplementary Instructions also envisage as under :-

" 8. Sanction of claim for rebate by Central Excise

8.1 The rebate claim can be sanctioned by any of the following Officers of Central Excise:

Deputy/Assistant Commissioner of Central Excise having jurisdiction over the factory of production of export goods or the warehouse; or the Maritime Commissioner."

8.3 Applicant has relied upon CBEC circular No. 294/10/97-Cx dated 30.01.1997 to claim that rebate claim can be sanctioned by ACCE/DCCE having jurisdiction over the premises of registered dealer. Government notes that as per para 8.7 of said circular the claim for rebate together with proof of export was to be filed with Assistant Commissioner of Central Excise. The applicant is interpreting this provision to claim that claim is to be filed with ACCE having jurisdiction over the said applicant dealer. This is erroneous interpretation given by applicant to suit his requirement. CBEC has not specified any proper officer in the said circular dated 30.01.1997. Moreover, the circular cannot supersede the provisions of Notification issued under Rule 18. The circular is of 1997 whereas the Notification was issued on 6.9.2004. As such it is ample clear that provisions of para 3(b) of Not. No. 19/2004-CE(NT) dated 6.9.2004 are applicable in this case.

8.4 Regarding the applicant plea that they have filed rebate claim with ACCE Division-B, Hyderabad-I as per CCE Hyderabad-I vide letter C. No. IV/16/04/2009-CE(Tech) dated 18.3.2009. In this regard, it is noted that in the said letter CCE Hyderabad-I has permitted the applicant to procure duty paid bulk drugs for export from various manufacturers subject to compliance of certain additional conditions / procedure. In the said letter, the rebate sanctioning authority is not specified. So, it is incorrect on the part of applicant to interpret the letter as it suits them by ignoring the actual contents of the same.

8.5 Applicant has relied upon two GOI Revision Orders in support of his pleadings. Government notes that the decision in the case of M/s R.S. Impex International vs. CCE 1993 (67) ELT 1007 (GOI) pertains to the year 1993 whereas for the impugned claims, the provisions of notification No. 19/04-CE(NT) dated 6.9.2004 are applicable. So, the ratio of said case cannot be applied to the present cases. Similarly in the case Reliance Industries 2012 (275) ELT 277 (GOI), the facts of the case are totally different. In the said case applicant Reliance Industries Ltd. Aviation Fuel Station International Airport Ahmedabad was the holder of Central Excise Registration to operate as a depot of manufacturer M/s Reliance Industries Ltd., Jamnagar to supply ATF to foreign going aircrafts which was received from their Reliance Industries Refinery at Jamnagar. Rebate claims were sanctioned by ACCE Division-I Ahmedabad. CCE, Ahmedabad-II had not designated any officer as Maritime Commissioner in terms of CBEC circular No.758/74/2001-Cx dated 29.10.2003 and rebate were already sanctioned and paid to the applicant. Therefore the order for sanction of rebate was upheld since the rebate claim was otherwise in order. In the instant cases, it is not the case that no maritime Commissioner is designated. Moreover, in one case at Sr. No.4 of table in para 1, the rebate claim is initially rejected and in other cases the rebate claims are partially rejected. So the whole issue is in dispute and full rebate claims are yet not sanctioned. So the ratio of said GOI order cannot be made applicable to this case.

8.6 Hon'ble Supreme Court has held in the case of M/s ITC Ltd. vs. CCE 2004 (171) ELT 433 (SC) and M/s Paper Product vs. CCE 1999 (112) ELT 765 (SC) that simple and plain meaning of the wordings of statute is to be strictly adhered to. Therefore, the interpretation of statute is done by Commissioner (Appeals) following the above said principles laid down by Hon'ble Supreme Court and cannot be faulted with.

9. The second issue relates to rejection of part rebate claim non-submission of triplicate copy of ARE-1 duly certified by the range Superintendent. In this regard, the whole issue is examined in detail by Commissioner (Appeals) and in his order-in-appeal No. 49-54/12 and 74-77/12 dated 24.05.12, he has given following findings :-

12. Perusal of the contents of the above Notification No. 19/2004-CE(NT dated 6.9.2004, would make it amply clear that it is mandatory on the part of the rebate sanctioning authority to compare original, duplicate and triplicate copy of ARE-1 (for admission of proof of export and for confirmation of duty paid nature of goods) for sanction of rebate. Further, the procedures discussed as above, clearly emphasized the relevance of triplicate copy of the ARE-1 and the endorsement by the Superintendent of Central Excise having jurisdiction over the factory of manufacture to the effect that the duty having been paid by the manufacturer. In the absence of triplicate copy of ARE-1 with necessary endorsement, it is not possible for the rebate sanctioning authority to satisfy him/her with regard to the duty paid character of the goods exported.

13. The DRL contends that the verification report given by the Superintendent having jurisdiction over their dealer premises, as mentioned in the impugned order clearly indicate that the duty had been paid on the subject goods exported. I have gone through the para of OIO, which mention about verification report by the RO (for eg. Para 2 of the OIO No. 496/2011-CE (rebate) dated 20.11.2011). It says that the range officer Bollaram II in his verification report on the subject rebate claim reported that the assesses had cleared the goods on payment of duty as shown in ARE-1.

14. A quick perusal of the ARE-1 (original and duplicate) available on records show that the said ARE-1 mention only the details of manufacturers Invoice No. and date, and no where it contain details of payment of duty (i.e. debit entry number of PLA/Cenvat account through which duty had been discharged) by the manufacturer. Further, the certification given by the superintendent at Part A (i) of the ARE-1 only mention at relevant place the page number of RG23D (Register maintained by DRL as dealer) at which duty relating to the goods exported had been debited. It appears that even DRL were also under the impression that the debit entry made by them in their RG23D register would be a sufficient proof for payment of duty on subject goods.

15. It is pertinent to note that the first stage dealers / second stage dealers would not pay any duty at their end; they only pass the excise duty on goods received by them, as provided under CENVAT Credit Rules, 2004 (CCR). Therefore, the debit entry made by DRL (as first stage dealer) in the RG23D register / CENVAT account would not in any way confirm the fact of duty payment by the original manufacturer on the goods exported.

16. Therefore, the receipt of triplicate copy of ARE-1 with necessary endorsement as regards the payment of duty on the goods mentioned in the ARE-1, from the Superintendent having jurisdiction over the manufacturer of exported goods is sine qua non for sanction of rebate, since it is only through the endorsement on triplicate copy by the superintendent having jurisdiction over factory, the rebate sanctioning authority could satisfy with regard to the duty paid character of the goods exported.

17. The argument put forward by DRL that they had made payment to their suppliers and also that it was the department look out to obtain the triplicate copy are devoid of merit in view of the

specific procedure prescribed, as mentioned above, in the Notification / Circulars discussed above, for sanction rebate. Hence, I find no infirmity in rejection of rebate on the grounds of non-receipt of triplicate copy of ARE-1, by the original authority in the impugned orders."

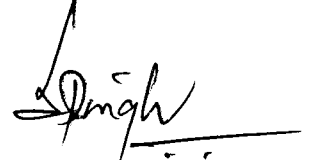
Government is in agreement with these findings and holds that the submission of triplicate copy of ARE-1 form duly certified by jurisdictional Superintendent of Central Excise having jurisdiction over factory, is essential for determining duty paid nature of exported goods. The rebate claim cannot be sanctioned unless and until the duty paid nature of exported goods is established to the satisfaction of rebate sanctioning authority as envisaged in the provisions of Not. No. 19/04-CE(NT) dated 6.9.2004.

10. In view of above discussion, Government holds that proper rebate sanctioning authority is as stipulated in para 3(b) of Not. No. 19/04-CE(NT) dated 6.9.2004 and triplicate copy of the ARE-1 form duly certified by Range Superintendent having jurisdiction over factory of manufacture about payment of duty particulars is essential for establishing duty paid nature of exported goods. Government upholds all the impugned orders-in-appeal upto this extent. Government further notes that original authority has not pointed out any other deficiency in these rebate claims with respect to compliance of conditions and procedure laid down in Not. No. 19/04-CE(NT) dated 6.9.2004. So it is clear that the rebate claims were otherwise admissible as per law. Government is of considered opinion that substantial benefit of rebate legally due to applicant cannot be denied straightway just for lack of jurisdiction of rebate sanctioning authority. In said cases, the original authority has erred in sanctioning the rebate claims. In fact ACCE should have transferred the rebate claim papers to the proper rebate sanctioning authority at the relevant time itself rather than sanctioning the claims without any jurisdiction. So there is a lapse on the part of department also. Therefore, the rebate claim papers of all these cases may be transferred to the proper rebate sanctioning authority either ACCE/DCCE having jurisdiction over factory of manufacture or Maritime Commissioner as requested by applicant. The proper rebate sanctioning authority will consider these claims as filed in time as the initial date of filing claims is to be taken as date of filing rebate claims for the purpose of time limitation prescribed

under section 11B of CEA 1944. Keeping in view the prolonged litigation in matter, the proper rebate sanctioning authority will decide these cases on merit in accordance with law as early as possible preferably within one month of the receipt of claim papers. The ACCE Division-B Hyderabad-I will transfer the claims to proper rebate sanctioning authority within two weeks of the receipt of this order. The impugned orders-in-appeal are modified to this extent.

11. The revision applications are disposed off in terms of above.

12. So ordered.

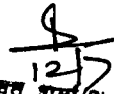


(D.P. Singh)

Joint Secretary (Revision Application)

Dr. Reddy's Laboratories Ltd.,
Central Warehouse, Plot No. 105,
Bollaram Village, Jinnaram Mandal,
Mutrujpalli (PO), Medak District – 502325.,
Andhra Pradesh

AH-Ad'



(भगवत शर्मा/Bhagwat Shama)
सहायक आयोग/Assistant Commissioner
C B E C - O S D (Revision Application)
पि. मंत्रालय (राजस्व विभाग)
Ministry of Finance (Deptt of Revd)
भारत सरकार/Govt of India
नई दिल्ली/New Delhi

Order No.878-92813-Cx dated 11-07-2013

Copy to:

1. The Commissioner of Central Excise & Service Tax, Hyderabad-I, Opp. L.B. Stadium Road, Basheer Bagh, Hyderabad-500004.
2. The Commissioner (Appeals-III), Central Excise & Service Tax, L.B. Stadium Road, Basheer Bagh, Hyderabad-500004.
3. The Deputy Commissioner of Central Excise, Division-B Hyderabad-I, 8th Floor, Posnett Bhavan, Church Building, Ramkote, Hyderabad-500001.

4. PS to JS (RA)

5. Guard File.

6. Spare Copy

ATTESTED



(B.P.Sharma)

OSD (REVISION APPLICATION)