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SPEED POST



F.No. 195/72/14-RA & 195/73/2014-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.....

ORDER NO. 9697/18-CX dated 5-2-2018 OF THE GOVERNMENT  
OF INDIA, PASSED BY SHRI RAJPAL SHARMA, 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. L4D-excus-000-APP-620-13-14 dated  
10.12.2013 and LUD-EXCUS-000-APP-618-13-14  
dated 29.11.2013 passed by the Commissioner,  
Central Excise, Chandigarh II.

APPLICANT : M/s JMP Manufacturing Co. Ltd.

RESPONDENT : Commissioner of Central Excise, Jalandhar

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## ORDER

Revision Applications No. 195/72/14-RA dated 03.03.2014 and 195/73/14-RA dated 03.03.2014 have been filed by M/s JMP Manufacturing Co. Ltd. (hereinafter referred to as the applicant) against Order in Appeal No. LUD-EXCUS-000-APP-620-13-14 dated 10.12.2013 and LUD-EXCUS-000-APP-618-13-14 dated 29.11.2013, passed by Commissioner (Appeals), Chandigarh.

2. Brief facts of the case leading to the filing of the Revision Applications are that the applicant filed two rebate claims for Rs. 50,058/- and Rs. 22,678/- which were rejected by the original adjudicating authority for the reason that the value of the goods mentioned in the export invoices have been blackened and thereby the condition at para 2(e) of notification no. 19/2004-CE(NT) dated 06.09.2004 is not satisfied which provides that the market price of the excisable goods at the time of exportation is not less than the amount of rebate of duty claimed. Their appeal before the Commissioner of Central Excise (Appeal), Chandigarh filed against the orders of the Assistant Commissioner is also rejected vide above mentioned orders-in-Appeal and now the applicant has filed the two Revision Applications mainly on the grounds that the rebate of duty is admissible to them as there is no dispute regarding export of goods and the value is blackened by the merchant exporter in the interest of their business secret. To support their case the applicant has also replied upon the following decisions.

- i) Alpha Garments Vs. CCE 1996(86) ELT 600(T).
- ii) CCE Vs. Hindustan Petroleum Corporation Ltd. 1985(21) ELT 907.
- iii) Benara Bearings Pvt. Ltd. Vs. CCE 1999 (105) ELT 398(T).
- iv) Associated Cement Co. Ltd. Vs. CCE 1999 (111) ELT 257 (T).
- v) Oudh Sugar Mills Ltd. Vs. 4011978(2) ELTJ172 SC.
- vi) Delhi Cloth and General Mills Co. Ltd. Vs. State of Rajasthan and others 1980(6) ELT 383 (SC).

(vii) Dunlop India Ltd. And Madras Rubber Factory Ltd. Vs. U.O.I and others 1983(13) ELT (SC).

(viii) Collector Vs. Shivani Engg. Systems 1996 (86) ELT 453(SC).

(ix) Hem Raj Gordhandan Vs. H.H. Dave Assistant Collector of CE and Customs 1978(2) ELT J350 (SC), 1978 ELT J355 (SC).

3. Personal hearing was held on 13.12.2017 and Sh. Sudhir Malhotra, Advocate, appeared for the applicant who reiterated the grounds of revision already made in their application.

4. From the order of the lower authorities it is evident that the rebate claims of the applicant have been rejected due to blackening of the value amount in the excise invoices and it is not disputed by the applicant also in their Revision Application. Further it is also noticed that no other evidence has been produced to establish that the market price of the exported goods was more than the rebate of duty claimed by the applicant in these two cases. In the Revision Application it is merely stated that they had produced Bank realisation certificate before adjudicating and appellate authority. But no supporting evidence has been provided before the Government. Copy of Bank realisation certificate is not found enclosed with the Revision Application and it was not produced even during personal hearing. Thus, the Government is not in a position to ascertain whether the market value of the exported goods was more than the rebate of duty as is claimed by the applicant. The case laws relied upon by the applicant are also not found relevant in the present case as none of them has dealt with this unique instance of blackening the value of the goods in the export invoices and non ascertainability of value from any other source. Therefore, the applicant has failed to convince the Government that the applicant has satisfied the above stated condition specified at para 2(e) of notification no. 19/2004. Consequently, no fault can be found in the order of the Commissioner (Appeal) whereby the rebate claims of the

applicant have been rejected for non-compliance of the above referred condition of the notification.

5. In view of the above discussion the Revision Applications filed by the applicant are rejected.

*Ops hand written*  
5-2-18  
(R. P. SHARMA)

ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA

M/s JMP Manufacturing Co.,  
983, Preet Nagar, Sodal Road, Jalandhar

ORDER NO. 96-97/18-CX dated 5-2-2018

Copy to:-

1. The Commissioner of Central Excise, Ludhiana Commissionerate, (Jalandhar Division), Central Excise House, "F" Block, Rishi Nagar, Ludhiana- 141 001 (Punjab).
2. The Commissioner (Appeals) Central Excise, Comm'rate Chandigarh-I Central Revenue Building, Sector 17-C, Chandigarh.
3. O-i-O No. Rebate/1370/Jal/DC/2011 issued under C. No. IV(16)30/Reb/154/11/8920 dt. 07.09.2011 by Deputy Commissioner, Central Excise Division, Jalandhar.
4. Mr. Sudhir Malhotra, Advocate, 13-R Hukum Chand Colony, Near D.A.V. College, Jalandhar 098140-44175.
5. PS to AS(RA)
- ✓ 6. Guard File.

ATTESTED

*5.2.21*  
(Debjit Banerjee)  
STO (REVISION APPLICATION)