

SPEED POST



F.No. 195/222/2018-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...11/5/21

Order No. 98/2021-CX dated 11-5-2021 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. NOI-EXCUS-002-APP-1884-17-18 dated 21.03.2018 passed by the Commissioner (Appeals), CGST, Noida.

Applicants : M/s. Metenere Ltd., Dadri.

Respondent : The Commissioner of CGST, Greater Noida.

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## ORDER

A revision application no. 195/222/2018-RA dated 27.12.2018 has been filed by M/s Metenere Ltd, Dadri (hereinafter referred to as the applicant) against Order-in-Appeal No. NOI-EXCUS-002-APP-1884-17-18 dated 21.03.2018, passed by the Commissioner (Appeals), CGST & Customs, Noida. The Commissioner (Appeals), vide impugned Order-in-Appeal, has rejected the appeal filed by the applicant against the Order-in-Original No. 417/Rebate/2016-17 dated 21.03.2017 passed by the Assistant Commissioner of the then Central Excise Division-IV, Ghaziabad.

2. Brief facts of the case are that the applicant exported goods under claim of rebate, under Rule 18 of the Central Excise Rules, 2002, vide ARE-1 No. 28/2015-16 dated 08.10.2015. The Let Export Order was given on 14.10.2015. The rebate claim which was filed on 20.12.2016, after delay of more than one year from the Let Export Order, was rejected by the Assistant Commissioner on the grounds of limitation. The appeal filed by the applicant before Commissioner (Appeals) was also rejected.

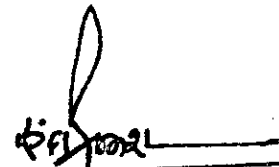
3. The revision application has been filed on the grounds that while filing the ARE-1, the applicant duly declared thereon that the export of goods would be under claim for rebate of duty; that though under the relevant notification procedure was laid down for claiming refund but since they had indicated on ARE-1 about the export of goods under claim of rebate of duty, the procedure was not substantive in nature and therefore the benefit cannot be denied to them on procedural infraction.

3. Personal hearing in the matter was held on 10.05.2021. Sh. Rajesh Chibber, Advocate appeared for the applicant and reiterated the contents of the RA. He highlighted that since they had indicated on the ARE-1 their intention to claim rebate, the actual filing of the claim was a mere procedural formality and that their substantive right of rebate should not be denied to them due to a delay in completing

the procedural formality. No one appeared for the respondent department nor any request for adjournment has been received. Therefore, the matter is taken up for decision on the basis of records.

5. The Government has carefully examined the matter. As per Clause (A) of the Explanation to Section 11B of the Central Excise Act, 1944, "refund" includes rebate of duty of excise on excisable goods exported out of India. Further, sub-section (1) of Section 11B provides that "*(1) Any person claiming refund of any duty of excise and interest, if any, paid on such duty may make an application for refund of such duty and interest, if any, paid on such duty to the Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise before the expiry of one year from the relevant date.....*". Thus, on a plain reading of Section 11B, it is clear that the limitation period of one year is provided for making the **application for refund**. The statutory provision being so unambiguous, there is no scope to entertain the contention that since the applicant had indicated on the ARE-1 their intention to claim rebate, the actual filing of claim was a mere procedural formality. In any case, a ARE-1 (Application for Removal for Export) cannot substitute for an application for refund, which is mandated as per the parent statute i.e. Section 11B of the Central Excise Act, 1944. Hence, the Government does not find any infirmity in the impugned Order-in-Appeal.

6. The Revision Application is rejected.



(Sandeep Prakash)

Additional Secretary to the Government of India

M/s. Metenere Ltd., Village Bheel  
Akbarpur, Dadri, Distt. Gautam Budh Nagar, (U.P.)- 201 314.  
G.O.I. Order No. 98/21-CX dated 11-5-2021

Copy to: -

1. The Commissioner of Central Goods & Service Tax, Gautam Budh Nagar Commissionerate, 3<sup>rd</sup> Floor, Wegmans Business Park, Greater Noida – 201 306.

2. Commissioner of CGST & Customs (Appeals), Noida.
3. The Assistant Commissioner, CGST Division-I, CGST Commissionerate, GB Nagar, Greater Noida – 201 306.
4. P.S. to A.S. (Revision Application).
5. Guard File.
6. *spare copy*

ATTESTED

*[Signature]*  
12/5/24  
Supdt (PA)