



F.No. 196/16/ST/2014-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. 2/9/19.....

Order No. 03/19-ST dated 30-08-2019 of the Government of India, passed by Smt. Mallika Arya, Principal Commissioner & Additional Secretary to the Government of India, under Section 35EE 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.52/ST/HAL/2014 dated 25.04.2014 passed by the Commissioner of Central Excise(Appeals-I), Kolkata.

Applicant : M/s Crest Merchandise Pvt. Ltd., Haldia.

Respondent : The Commissioner of CGST, Kolkata.

ORDER

A Revision Application No. 196/16/ST/2014-R.A. dated 07.10.2014 has been filed by M/s. Crest Merchandise Pvt. Ltd., Haldia (hereinafter referred to as the applicant) against Order-in-Appeal No. 52/ST/HAL/2014 dated 25.04.2014 passed by the Commissioner of Central Excise (Appeals-I), Kolkata who has set aside the order of the Assistant Commissioner sanctioning rebate of Rs. 3,35,555/- to the applicant and allowed the departmental appeal against the Assistant Commissioner's order.

2. The Revision Application has been filed mainly on the ground that they have satisfied all the conditions laid down in Notification No. 17/2009-ST dated 07.07.2009 and the Commissioner (Appeals) has erred in rejecting their refund claim merely on the ground of not mentioning the date in the certificate issued by the Chartered Accountant.

3. Personal hearing in this case was held by the then Addl. Secretary (RA) on 15.1.2018 and it was attended by Shri Vipin Jain, Chartered Accountant, for the applicant who submitted written arguments during the hearing. Since the order could not be issued by the earlier revisionary authority, another personal hearing was granted to the applicant on 13.08.2019 and 27.08.2019. However no one appeared on these dates. Hence the case is being taken up for final disposal on the basis of available case records.

4. On examination of the revision application, the applicant's additional submissions dated 21.01.2019 and the orders of the lower authorities, it is noticed by the Government that the issue involved in the Commissioner (Appeals)'s Order is

regarding admissibility of refund of service tax paid on specified services under Notification No. 17/2009-ST dated 7.7.2009. Under first proviso to Section 86(1) of the Finance Act, 1994 the Government has been vested with the revisionary power with reference to the Order of the Commissioner (Appeals) involving the matter relating to grant of rebate of service tax on input services or rebate of duty paid on inputs only. Government does not have revisionary jurisdiction under Section 86 of the Finance Act, 1994 since the issue in this case is not related to rebate of service tax on input services. Therefore, above revision is not maintainable before Government due to lack of jurisdiction.

5. Accordingly, the Revision Application is rejected as non-maintainable without going into the merits of the case.


(Mallika Arya)

Additional Secretary to the Government of India

M/s. Crest Merchandise Pvt. Ltd.,
Milon, Opp. Bhabanipur,
Police Station-Debhog,
Medinipur East, Haldia-721657.

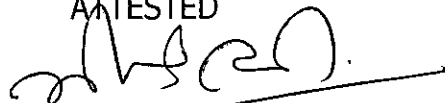
Order No. _____ 03/19-ST

dated 30-08-2019

Copy to:

1. The Commissioner of Central Goods & Service Tax, Kolkata, Haldia Commissionerate, 25, Princep Street, Kolkata-700072.
2. The Assistant Commissioner of Central Goods & Service Tax, Haldia Commissionerate, Tripath Complex, Debhog, Bhabanipore, Haldia-721657.
3. Shri Vipin Jain, Chartered Accountant, RX Bizness Advisors LLP, RU-6, Pitam Pura, Near Power House, Delhi-110034.
4. PA to AS(RA)
5. Guard File

ATTESTED



(Ashish Tiwari)
Assistant Commissioner