

SPEED POST



F.No. 198/02/2019-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. 28/5/21.....

Order No. 10/2021-ST dated 28-5-2021 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, read with Section 83 of the Finance Act, 1994.

Subject : Revision Applications filed under section 35 EE of the Central Excise Act, 1944, read with Section 83 of the Finance Act, 1994 against the Order-in-Appeal No. MRT/EXCUS/000/APPL-MRT-308/2018-19 dated 08.10.2018 passed by the Commissioner (Appeals), CGST, Meerut.

Applicants : The Commissioner of CGST, Meerut.

Respondent : M/s. Alm Industries Ltd., Saharanpur.

ORDER

A revision application no. 198/02/2019-RA dated 09.01.2019 has been filed by the Commissioner of CGST, Meerut (hereinafter referred to as the Applicant) against the Order-in-Appeal No. MRT/EXCUS/000/APPL-MRT-308/2018-19 dated 08.10.2018 passed by the Commissioner (Appeals), CGST, Meerut wherein the appeal filed by M/s Alm Industries, Saharanpur, the respondent herein, against the Order-in-Original No. 33/2017 (R) dated 30.06.2017 passed by the Assistant Commissioner, Central Excise, Saharanpur has been allowed.

2. Briefly stated, the respondent are engaged in export business of 'Indian Frozen Boneless Halal Buffalo Meat' and filed a refund claim of Rs. 13,13,201/-, on 02.06.2017, for the month of November, 2016, under Notification No. 41/2012-ST dated 29.06.2012, as amended, for refund of Service Tax paid on input taxable services. The original authority after following the principles of natural justice sanctioned the refund claim of Rs. 11,93,808/-, out of the total claimed amount of Rs. 13,13,201/- and rejected refund claim of Rs. 1,19,393/-. Out of the rejected amount, an amount of Rs. 86,602/- related to Swachh Bharat Cess & Krishi Kalyan Cess paid by the respondent; another amount of Rs. 14,180/- in respect of which proof of receipt of foreign exchange remittance was not submitted; an amount of Rs. 3,508/- where proof of receipt of foreign exchange remittance was partially submitted; and an amount of Rs. 1000/- which was voluntarily withdrawn. In appeal, the Commissioner (Appeals) allowed the refund in respect of the Swachh Bharat Cess and Krishi Kalyan Cess as well as the amount of Rs. 14,180/- in respect whereof the proof of remittance was not submitted.


3. The revision application has been filed, partially challenging the Order-in-Appeal dated 08.10.2018, in so far as it relates to grant of refund of the amount of Rs. 14,180/-, which was originally rejected for non-submission of BRC/proof of realisation of export proceeds.

The Respondents have filed a written submission dated 10.05.2019 in reply to the RA and have enclosed a photocopy of BRC in respect of Shipping Bill No. 2359241 dated 22.11.2016 ostensibly relating to the refund amounting to Rs. 14,180/-.

3. Personal hearings in the matter were fixed on 06.04.2021, 10.05.2021 & 27.05.2021. None appeared for the applicant and no request for adjournment has been received. The respondents have, vide letter dated 10.05.2019, indicated that they do not wish to be heard in person. Therefore, the matter is taken up for decision based on records.

5. The Government has examined the matter. Short point involved is non-submission of BRC in respect of exports corresponding to the refund amount of Rs. 14,180/-, which was rejected by the original authority. The respondent, vide their reply dated 10.05.2019, have submitted a statement of Bank Realization from the DGFT website indicating the realization of export proceeds against Shipping Bill No. 2359241 dated 22.11.2016. On the other hand, it is observed from the Order of the original authority that the subject refund was claimed against the Shipping Bill No. 2376754 dated 22.11.2016. Therefore, the evidence submitted with the reply dated 10.05.2019 is not relevant. As such, the corresponding refund could not have been granted.

6. In view of the above, the revision application is allowed and the impugned Order-in-Appeal is modified to the above extent.


(Sandeep Prakash)

Additional Secretary to the Government of India

The Commissioner of CGST, Meerut,
Opp. C.C.S. University, Mangal Pandey Nagar,
Meerut- 250 004.

G.O.I. Order No. 10 /21-ST dated 25-5-2021

Copy to: -

1. M/s. Alm Industries Ltd., 43-Kutub Market, Ambala Road, Saharanpur (U.P.)-247 001.
2. Commissioner (Appeals), CGST, Meerut.
3. P.S. to A.S. (Revision Application).
4. ✓ Guard File.
5. ✗ Spare Copy.

ATTESTED



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