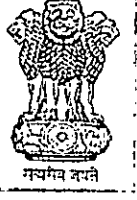


SPEED POST



**F. No. 196/17-19/ST/18—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. 07/06/2021

Order No. 11-13/2021-ST dated 07-06-2021 of the Government of India, passed by Shri Sandeep Prakash, Additional Secretary to the Government of India, under Section 83 of Finance Act, 1994 read with Section 35 EE of the Central Excise Act, 1944.

Subject: Revision Application filed under Section 83 of Finance Act, 1994 read with Section 35 EE of the Central Excise Act, 1944 against the Order-in-Appeal No. 471-473-ST/APPL/LKO/2018 dated 10.09.2018 passed by Commissioner (Appeals), Customs, Central Excise and CGST, Lucknow.

Applicant: M/s Ginni Filaments Ltd., Mathura.

Respondent: Commissioner, CGST, Agra.

ORDER

Three Revision Applications Nos. 196/17-19/ST/18—R.A. dated 27/28.09.2018 have been filed by M/s Ginni Filaments Ltd., Mathura (hereinafter referred to as applicant) against Order-in-Appeal No. 471-473-ST/APPL/LKO/2018 dated 10.09.2018 passed by Commissioner (Appeals), Customs Central Excise and CGST, Lucknow .

2. The brief facts leading to the present proceedings are that the applicant had filed three rebate claims, amounting to Rs. 61,587/-, Rs. 85158/- and Rs. 75,540/- (out of the total amount of Rs. 2,59,958/-) under Notification no. 41/2012-ST dated 29.06.2012, in respect of the services received from Indian Commission Agents for procuring export orders of 100% cotton yarn manufactured by them. The rebate claims were rejected by the original authority on the ground that the refund of service tax was not admissible as the said services had been utilized before the place of removal, thus not fulfilling the condition stipulated in the said notification. Aggrieved, the applicant filed appeals before the Commissioner (Appeals)

● which were rejected vide the impugned Orders-in-Appeal on the same
● ground

3. The present revision applications have been filed, mainly, on the ground that the said services were eligible to be specified services as per the notification no. 41/2012-ST dated 29.06.2012, as amended vide notification no. 1/2016 dated 03.02.2016, with retrospective effect.

4. Personal hearing was held on 04.06.2021, in virtual mode. A written submission dated 02.06.2021 was filed by the Applicant stating that identical issue for earlier period has been remanded to the original authority for *de-novo* consideration by the GOI vide Order No. 01-02/2021-ST dated 16.02.2021 and that these revision applications could also be remanded accordingly. Sh. S. C. Kamra, Advocate, reiterated these submissions on behalf of the Applicant. Sh. Rajesh Meena, DC, appeared for the respondent department and stated that the Government's Order dated 16.02.2021 has been complied.

5.1 The Government has examined the matter. It is not in dispute that, originally, as per the Explanation Clause (A) (i) to the Notification No. 41/2012-ST dated 29.06.2012, the rebate could be granted by way of refund of service tax paid on the 'specified services', which was defined to

mean as “in case of excisable goods, taxable services that have been used beyond place of removal, for the export of said goods”. The original authority rejected the applicant’s rebate claims as the services of Commission Agents were not provided post removal i.e. beyond the place of removal in terms of the said notification. This view was upheld by the Commissioner (Appeals) also in the impugned Orders-in-Appeal:-

5.2 However, it is observed that the Notification No. 41/2012-ST dated 29.06.2012 was amended vide Notification No. 01/2016-ST dated 03.02.2016 whereby the definition of ‘specified services’ was changed to mean as the “taxable services that have been used beyond factory or any other place or premises of production or manufacture of the said goods, for their export”. This amendment was given retrospective effect, vide Section 160 of the Finance Act, 2016 read with the Tenth Schedule thereof, for the period 01.07.2012 to 02.02.2016 (both days inclusive). On a plain reading of the amended definition, the Government finds that any service received in respect of export goods where such service is rendered outside the factory or any other place of manufacture is the ‘specified service’ for the purpose of notification no. 41/2012-ST dated 29.06.2012. Consequently, rebate of service tax paid in respect of such service shall be admissible.

5.3 It appears from the orders of the authorities below that the fact of retrospective amendment and inclusion of the “services used beyond factory” instead of “services used beyond place of removal” was not pleaded before them. In these facts and circumstances, it will be just and fair that the original authority considers the rebate claims, *de novo*, in view of the amended notification no. 41/2012-ST dated 29.06.2012 as prayed by the Applicant citing Government’s Order No. 01-02/ST dated 16.02.2021.

6. Accordingly, the orders of lower authorities are set aside and the matter is remanded to the original authority to decide the matter afresh keeping in view the findings above.



(Sandeep Prakash)

Additional Secretary to the Government of India

M/s Ginni Filaments Ltd.,

110 KM Milestone, Delhi-Mathura Road, Chhata, Distt- Mathura-281401

G.O.I. Order No. 11-13/21-ST dated 7-6-2021

Copy to:-

1. Commissioner of Central Excise & CGST, Agra.
2. Commissioner of Customs, CGST & Central Excise (Appeals), Lucknow.
3. PA to AS (Revision Application)

4. Guard File

5. Spare Copy.

ATTESTED

(Ashish Tiwari)
Assistant Commissioner (R.A.)

Gehatr
07/6/2021
(Gurshan Bhatia)
Superintendent (R.A.)