

SPEED POST



F.No. 196/12/ST/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... 07/06/2021

Order No. 14/2021-CXST dated 07/6/-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 Finance Act, 1994.

Subject : Revision Application filed under section 35 EE of the Central Excise Act, 1944, read with Section 83 of Finance Act, 1994 against the Order-in-Appeal No. CHD-EXCUS-001-APP-43-47-18-19 dated 26.04.2018 passed by the Commissioner (Appeals), CGST, Chandigarh.

Applicants : M/s Winshuttle Software (India) Pvt. Ltd, Chandigarh.

Respondent : Commissioner of CGST, Chandigarh.

ORDER

A revision application no.196/12/ST/2018-R.A. dated 02.08.2018 has been filed by M/s Winshuttle Software(India)Pvt. Ltd,Chandigarh(hereinafter referred to as the Applicant) against the Order-in-Appeal no. CHD-EXCUS-001-APP-43-47-18-19 dated 26.04.2018 passed by the Commissioner (Appeals), CGST, Chandigarh wherein the appeals filed by the applicant against Orders-in-Original nos. 69/DC/R/ST/CHD/2016 dated 09.02.2017, 64/DC/R/ST/CHD/2017 dated 31.01.2017, 86/DC/R/ST/CHD/2017 dated 30.03.2017, 49/DC/R/ST/CHD/2017 dated 05.10.2017 and 48/DC/R/ST/CHD/2017 dated 05.10.2017 passed by Deputy Commissioner, CGST, Chandigarh, have been rejected.

3. Brief facts of the case are that the applicant are engaged in providing 'Information Technology Software Services' and had exported services to M/s Winshuttle, LLC, USA for which they were availing credit of input services of Telecom, Outdoor Catering, Management, Maintenance or Repair, Rent-a-Cab, Renting of Immovable Property, Manpower Recruitment, Management Consultant, Courier, Chartered Accountant and IT etc., as defined under Section 65 (105) of the Finance Act, 1994. They filed rebate claims of service tax paid on input services used for export of services exported by them under Rule 6A of the Service Tax Rules, 1994 read with Notification no. 39/2012-ST dated 20.06.2012. The rebate claims pertaining to service tax credit on the services relating to invoices issued in the name of their employees for their personal use, more than one invoices issued bearing the same numbers and repeated numbers, providing of Commercial Coaching to their employees, Outdoor Catering Services, Event Management and membership fees, Renting of Immovable property services etc. were decided by the original

authority vide aforesaid Orders-in-original dated 31.01.2017, 09.02.2017, 30.03.2017 and 05.10.2017. Aggrieved, the applicant filed appeals against the said Orders-in-Original which were rejected vide the impugned Order-in-Appeal dated 26.04.2018.

4. Instant revision application has been filed on the ground that they are eligible to claim the said rebate of service tax as the services on which the service tax was incurred were related to the output service provided by them; that they have got the refund related to one of the disputed issues for a later period after due verification was done by the original authority. Hence, the Order-in-Appeal merits revision.

5. Personal hearing was held on 04.06.2021, in virtual mode. Sh. Sumit Jindal, Chartered Accountant, appeared for the Applicants. He reiterated the contents of the revision application and highlighted that in respect of one of the issues involved, i.e., renting and housekeeping of space at Hyderabad, the refunds have been sanctioned (after verification), in respect of other periods and the department has not appealed against these orders. No one appeared for the respondent department and no request for adjournment has also been received. Hence, the matter is taken up for decision on the basis of facts available on records.

6.1 The Government have examined the matter.

6.2 The Applicants have stated that their rebate claims were rejected by the lower authorities on the following grounds:-

- (i) coaching sessions for the staff have no relation with the output service provided by them.

- (ii) invoices are issued in the names of the employees of the company.
- (iii) some invoices are issued with the same invoice numbers and date.
- (iv) outdoor catering has no relation with the output service provided by them.

6.3 The Applicants are exporting "Information Technology Support/Software Service" (ITSS) to their majors in the USA. No case has been made out that for export of these services any specialized coaching sessions were required from any outside agency. Hence, the Government finds that there is no nexus between the services of coaching sessions and the services exported by the Applicant.

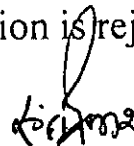
6.4 As regards the invoices issued in the name of the employees by the telecom companies, it is not shown by the Applicant that the services so availed were used exclusively for the ITS services exported by them. Therefore, input credit in such cases also cannot be claimed as rebate by them.

6.5 Rebate has been denied to the Applicant in the cases where invoices were issued with same invoice number and date by the vendor for renting and housekeeping services. It has been pointed out in the revision application that rebate in similar cases has been granted, after due verification, for the later period claims. However, the grant of claims for the later period can by itself not be a ground to support the claims for previous periods, since the sanctioned claims pertain to the period where upon factual verification, the claims could be established. There is no averment that for the subject period also the claims were found to be

admissible upon verification and were still rejected. In the circumstance, no case is made out for revision.

6.6 The Applicants have cited CBIC Circular no. 120/01/2010-ST dated 19.01.2010 which states that outdoor catering services are eligible for being input services in the cases of BPOs/Call Centres to support their claim in respect of rebate of tax paid on outdoor catering services. The Applicants are not a BPO or Call Centre. Hence, in this case also, no cause for revision is established.

7. In view of the foregoing, the revision application is rejected.



(Sandeep Prakash)

Additional Secretary to the Government of India

M/s Winshuttle Software (India) Pvt. Ltd.,
1st Floor, Tower F, DLF Building,
Technology Park, Chandigarh.

G.O.I. Order No. ST 14/21-~~CX~~ dated 07-6-2021

Copy to:-

1. The Commissioner, CGST, Chandigarh.
2. Commissioner (Appeals), CGST, Chandigarh.
3. Sh. Kapil Nagpal, Supervisor Accounting, M/s Winshuttle Software (India) Pvt. Ltd., 1st Floor, Tower F, DLF Building, Technology Park, Chandigarh-160 101
4. P.S. to A.S. (Revision Application).
5. Guard File.
6. Spare Copy.

ATTESTED

गुलशन भाटिया
07/6/2021

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