

SPEED POST



F.No. 196/13/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...10/6/21...

Order No. 15/2021-CXST dated 10-6-2021 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. NOI-EXCUS-001-APP-2016-17-18 dated 28.03.2018 passed by the Commissioner, Central Tax (Appeals), NOIDA.

Applicants : M/s Adobe Systems India Pvt. Ltd, NOIDA.

Respondent : Commissioner of CGST, NOIDA.

ORDER

A revision application no. 196/13/ST/2018-R.A. dated 23.08.2018 has been filed by M/s Adobe Systems India Pvt. Ltd, NOIDA (hereinafter referred to as the Applicant) against the Order-in-Appeal no. NOI-EXCUS-001-APP-2016-17-18 dated 28.03.2018 passed by the Commissioner, CGST (Appeals), NOIDA vide which the Commissioner (Appeals) has upheld the Order-in-Original no. 52/AC/ST/DIV-II/2016-17 dated 31.03.2017 of the Assistant Commissioner, Service Tax, NOIDA. The said Order-in-Appeal is stated to have been received by the Applicant on 29.05.2018.

2. Brief facts of the case are that the Applicant's claim for refund of accumulated CENVAT credit taken on input services under the provisions of Rule 5 of the CENVAT Credit Rules, 2004 read with Notification no. 27/2012-CE (NT) dated 18.06.2012 was rejected by the original authority on the ground that the CENVAT credit availed by them was not admissible to them and consequently, the refund of unutilized credit was also not admissible. Aggrieved, they approached the Commissioner (Appeals) with an appeal, which was rejected vide the impugned Order-in-Appeal.

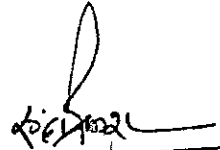
3. The Applicants have filed this revision application on the ground that they are eligible to claim the said refund of unutilized CENVAT credit and the Order-in-Appeal merits revision. The revision application was accompanied by a fee of Rs. 200/- as per Challan dated 20.08.2018.

4. Personal hearing was held on 04.06.2021, in virtual mode. Sh. Kapil Vaish and Sh. Ashish Vaish, Chartered Accountants, appeared for the Applicants. Sh Kapil Vaish made submissions and reiterated the contents of the revision application. He requested for one week's time to submit a synopsis in respect of admissibility of the revision application as well as on merits. Sh. Vaish also stated

that the balance amount of Rs. 800/- towards fee shall be paid before the synopsis is submitted. The synopsis and the challan evidencing payment of Rs. 800/- has been submitted via email on 08.06.2021. No one appeared for the respondents for personal hearing. No request for adjournment has also been received. Hence, the matter is being taken up for decision on the basis of facts available on record.

5. The Government has examined the matter. The issue in this case is regarding refund of unutilized CENVAT credit under Rule 5 of CENVAT Credit Rules, 2004 and not rebate of service tax paid on services exported or the refund of service tax paid on input services used in services exported, as stipulated under Section 86 of the Finance Act, 1994 read with Section 35EE of Central Excise Act, 1944. Hence, the Government finds that a revision application cannot be maintained in the matter. It is observed that revision application filed by the Applicant herein, involving the same issue for earlier period, was also rejected by the Government, inter-alia, for want of jurisdiction, vide Order No. 71/2018-ST dated 10.12.2018.

6. Accordingly, the revision application is rejected, as not maintainable.



(Sandeep Prakash)

Additional Secretary to the Government of India

M/s Adobe Systems India Pvt. Ltd.,

Plot No. A-05, Sector 132,

NOIDA.

G.O.I. Order No.

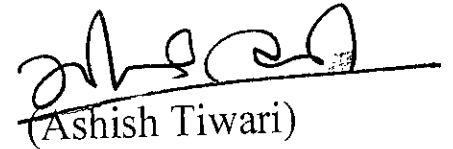
15/21-~~CX~~ST dated 10-6-2021

Copy to: -

1. The Commissioner, CGST, NOIDA.

2. Commissioner (Appeals), Customs and CGST, NOIDA.
3. K. Vaish & Co., Chartered Accountants, 146, 5th Floor,
Tower A, The Corenthum, Sector 62, NOIDA-201 301.
4. P.S. to A.S. (Revision Application).
5. Guard File.
6. Spare Copy.

ATTESTED


(Ashish Tiwari)

ASSISTANT COMMISSIONER (R.A.)