

SPEED POST



F.No. 196/04/ST/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..10-6-21.

Order No. 16/2021-<sup>ST</sup>CX 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. 10/ST/DLH/2019 dated 28.03.2019 passed by the Commissioner (Appeals-I), CGST and Central Excise, Delhi.

Applicants : M/s Mega Pack Industries, New Delhi.

Respondent : Commissioner of CGST, Delhi North, New Delhi.

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ORDER

A revision application no. 196/04/ST/2018-R.A. dated 26.06.2019 has been filed by M/s Mega Pack Industries, New Delhi (hereinafter referred to as the Applicant) against the Order-in-Appeal no. 10/ST/DLH/2019 dated 28.03.2019 passed by the Commissioner (Appeals-I), CGST and Central Excise, Delhi, vide which the Commissioner (Appeals) has modified the Order-in-Original no. 01/2018-19 dated 02.11.2018 passed by the Superintendent, CGST, Delhi by reducing the penalty from Rs. 10000/- to Rs. 1000/-. However, late fee of Rs. 1,60,000/- imposed under Section 70(1) of Finance Act, 1994 read with Rule 7C of Service Tax Rules, 1994, has been upheld.

2. Brief facts of the case are that the Applicants were engaged in the manufacture of stretch film under CETH 39219099 of the Central Excise Tariff Act, 1985 and registered with Central Excise Department. During the course of audit, it was observed that they had received GTA services, during the period 2012-13 to 2015-16 (up to September 2015), and had not discharged the applicable Service Tax liabilities on GTA expense under reverse charge mechanism (RCM) by due dates. After being pointed out by the audit team, they deposited the applicable service tax along with interest and penalty on GTA under RCM for the periods 2012-13 and 2015-16 and subsequently took service tax registration in January 2016. The applicants' case was adjudicated by the original authority, vide the aforesaid order-in-original dated 02.11.2018 wherein recovery of Rs. 1,60,000/- as late fee for late filing of returns was ordered and a penalty of Rs. 10,000/- for not taking service tax registration was imposed. Aggrieved, the applicant filed an appeal before Commissioner (Appeals), who, vide the impugned Order-in-Appeal, has reduced the penalty from Rs.

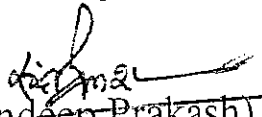
10000/- to Rs. 1000/- but the late fee of Rs. 1,60,000/- has been upheld.

3. The Applicants have filed this revision application mainly on the ground that they had not deposited the service tax due to ignorance and the same was deposited along with penalty and interest. Hence, the penalty and late fee may be waived.

4. Personal hearing was held on 04.06.2021, in virtual mode. Sh. Vineet Gupta, Proprietor, appeared for the Applicants and reiterated the contents of the revision application. 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 imposition of late fee for late submission of service tax returns, under Section 70(1) of the Finance Act, 1994 read with Rule 7C of Service Tax Rules, 1994, and imposition of penalty for non-registration for service tax under Section 77 of Finance Act, 1994 for contravention of provisions of Section 69 of the Finance Act, 1994. It is not a case of 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 and, hence, a revision application cannot be maintained before the Government.

6. In view of the above, the revision application is rejected as not maintainable.

  
(Sandeep Prakash)

Additional Secretary to the Government of India

M/s Mega Pack Industries,  
OP-136, Sector-5, Bawana Industrial Area,  
Delhi-110039

G.O.I. Order No. 15/21-<sup>ST</sup>~~EX~~ dated 10-6-2021

Copy to: -

1. The Commissioner, CGST, Delhi North, New Delhi.
2. Commissioner (Appeals-I), CGST and Central Excise, Delhi.
3. P.S. to A.S. (Revision Application).
4. Guard File.
5. Spare copy.

ATTESTED

  
(Ashish Tiwari)

Assistant Commissioner (R.A.)