

REGISTERED

SPEED POST



F.No. 196/211/2018-RA  
GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(DEPARTMENT OF REVENUE)  
14, HUDCO VISHALA BLDG., B WING  
6<sup>th</sup> FLOOR, BHIKAJI CAMA PLACE,  
NEW DELHI-110 066

Date of Issue...6.7.21.....

Order No. 26/21- CX dated 6-7-2021 of the Government of India passed by Shri Sandeep Prakash, Additional Secretary to the Government of India, under Section 35EE of the Central Excise Act, 1944.

Subject : Revision Application filed under Section 35EE of the Central Excise Act, 1944 against the 81/HWH/CE/2018-19 dated 18.05.2018 passed by the Commissioner Central Excise (Appeals), Kolkata-II.

Applicant : M/s Minco Tech (India) Pvt. Ltd., Howrah

Respondent : Commissioner of CGST & CE, Howrah.

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**ORDER**

A Revision Application No. 195/211/2018-R.A. dated 16.10.2018 has been filed by M/s Minco Tech (India) Pvt. Ltd., Howrah (hereinafter referred to as the Applicants) against Order-in-Appeal No. 81/HWH/CE/2018-19 dated 18.05.2018 passed by the Commissioner Central Excise (Appeals), Kolkata-II, wherein the Order-in-Original No. 19/Minco Tech/rebate/HWH-IV/2017-18 dated 30.05.2017, passed by the Deputy Commissioner of Central Excise, Howrah-IV Division, Kolkata (now, Sankrail Division, CGST Commissionerate, Howrah), has been upheld.

2. The brief facts of the case are that the Applicants had filed rebate claim of Rs. 68,773/- against export of their finished goods under ARE-I no. 63 dated 21.09.2016. The original authority sanctioned the rebate claim but adjusted the sanctioned amount against recovery of defaulted payment of Central Excise duty amounting to Rs. 4,37,500/- for the month of November, 2014. Aggrieved, the Applicants filed appeal before the Commissioner (Appeals) which was rejected.

3. The revision application has been filed, mainly, on the ground that the duty, alleged to be under default, was, by mistake, deposited in the account of their non-working unit and was utilised against clearances in the present working unit. On realising the mistake, a

● refund application was filed before the jurisdictional Central Excise authorities, which was rejected. An appeal against the said order-in-original is pending before Commissioner (Appeals). An application to the Chief Accounts Officer for transfer of the said amount to the working unit was also made and outcome is awaited. Hence the matter of default is still subjudice and adjustment from the sanctioned rebate amount is not tenable.

3. Personal hearing, in virtual mode, was held on 05.07.2021. Sh. Anil Bagaria, Director, attended the hearing on behalf of the Applicants and submitted that the refund amount had been adjusted against a liability which is disputed and subjudice. He also reiterated the contents of the revision application and the written submissions dated 03.07.2021. None attended the hearing for the respondents and no request for adjournment has also been received. Hence, the matter is taken up for disposal on the basis of facts available on records.

4. The Government has examined the matter. The Applicants have contended that they had deposited the defaulted duty amount in the account of their other non-working unit by mistake and the allegation of default is baseless. The Government finds that this averment does not hold any ground as duty deposited in any other unit, with a separate Central Excise registration, cannot be accounted for in respect of another unit (i.e. the Applicants herein). As such, the duty deposited in another unit cannot be used to overcome the default in

respect of the Applicants. Thus, the Government finds no infirmity in the impugned Order-in-Appeal.

5. The revision application is rejected.



(Sandeep Prakash)

Additional Secretary to the Government of India

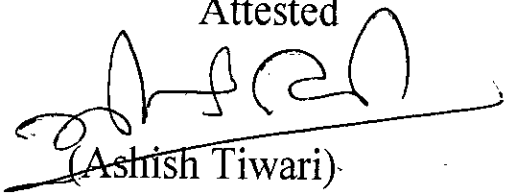
M/s Minco Tech (India) Pvt. Ltd.,  
J.L. No. 3, NH-6, Sulati, Dhulagarh Kandua, Andul, Mouri,  
Howrah-711 302.

Order No. 26/21-Cx dated 6-7-2021

Copy to:

1. The Commissioner of CGST & CE, Howrah, MS Building, 2nd Floor, 15/1, Strand Road, Kolkata-700 001.
2. Commissioner Central Excise (Appeals-), Kolkata-II, Bamboo Villa, 3<sup>rd</sup> Floor, 169, AJC Bose Road, Kolkata-700014.
3. PA to AS(RA)
5. Guard File.
6. Spare Copy

Attested



(Ashish Tiwari)

Assistant Commissioner (Revision Application)