

F.No. 196/13-22/ST/16-RA

196/23-27/ST/16-RA

196/18-28/ST/17-RA

REGISTERED

SPEED POST



F. No. 196/13-22/ST/16-RA, 196/23-27/ST/16-RA, 196/18-28/ST/17-RA
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...14/9/18..

Order No. ~~40-65/18~~ -S.Tax dated 11-9-2018 OF THE GOVERNMENT OF INDIA, PASSED BY SHRI R.P. SHARMA, ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA, UNDER SECTION 35EE OF THE CENTRAL EXCISE ACT, 1944 READ WITH SECTION 83 OF THE FINANCE ACT, 1994.

Subject : Revision Application filed under Section 35EE of the Central Excise Act, 1944 read with Section 83 of the Finance Act, 1994 against the Order-in-Appeal No. 17-26/ST/HAL/2016 dt. 28.03.2016, 27-31/ST/HAL/2016 dt. 28.03.2016 and 10-20/HAL/2017 dt. 21.03.2017, issued by the Commissioner of Central Excise (Appeal-I), Kolkata

Applicant : M/s Royal Line Resources Ltd., Room no. 4/16, 4th Floor, Akash Ganga Commercial Complex, P.O. Khanjanachak, P.S. Durgachak, Haldia, West Bengal-721602

Respondent: The Commissioner of Central Excise, Haldia.

ORDER

26 Revision Applications nos. 196/13-22/ST/16-RA dt. 11.07.2016, 196/23-27/ST/16-RA dt. 11.07.2016 and 196/18-28/ST/17-RA dt. 16.06.2017 are filed by M/s Royal Line Resources Ltd., Room no. 4/16, 4th Floor, Akash Ganga Commercial Complex, P.O. Khanjanchak, P.S. Durgachak, Haldia, West Bengal (hereinafter referred to as applicant) against Order-In-Appeal no. 17-26/ST/HAL/2016 dt. 28.03.2016, 27-31/ST/HAL/2016 dt. 28.03.2016 and 10-20/HAL/2017 dt. 21.03.2017, issued by the Commissioner of Central Excise (Appeal-I), Kolkata, whereby the Departmental appeals filed against orders of original adjudicating authority sanctioning the refund claims of the applicant are allowed.

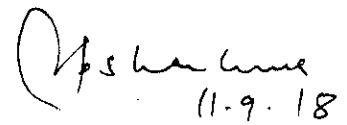
2. The Revision applications are filed mainly on the grounds that refund of Service Tax in respect of various input services is admissible to them under Notification no. 17/2009-ST dt. 07.07.2009 and same has been disallowed by the Commissioner (Appeals) on various technical reasons without considering their submissions and the documents produced by them.

3. Personal hearing was held on 07.08.2018 and it was availed by Sh. Parth Shah, CA, on behalf of the applicant who reiterated the grounds of revision pleaded in their applications which are already summed up in above Para2.

4. The Government has examined the matter and it is observed at the outset that the issue involved in the Order-In-Appeal(s) challenged in the above Revision Applications filed by the applicant is regarding exemption from the Service Tax which is operated by way of grant of refund of Service Tax under Notification no. 17/2009-ST dt. 07.07.2009. Whereas as per first proviso to Section 86 of the Finance Act, 1994, read with Section 35EE of the Central Excise Act, 1944, a revision application with regard to exported service can be filed before the Central Government only where the Order-In-Appeal passed under the Finance Act, 1994 relates to grant of rebate of Service Tax on input services or rebate of duty paid on inputs, used in providing such

service. But the issue relating to refund of Service Tax paid in respect of services is not specified under Section 86 of the Finance Act, 1994 at all for which the Government is vested with any revisionary jurisdiction. Therefore, the Revision applications in these cases have been wrongly filed before the Government.

5. Accordingly, the Revision Applications are rejected being not maintainable before the Government for lacking the jurisdiction.


11.9.18

(R.P. Sharma)

Additional Secretary to the Government of India

M/s Royal Line Resources Ltd.,
Room no. 4/16, 4th Floor,
Akash Ganga Commercial Complex, P.O. Khanjanchak,
P.S. Durgachak, Haldia, West Bengal-721602.

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196/23-27/ST/16-RA
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GOI ORDER No. ^{40-65/18} S.Tax dt. 11-9-2018

Copy to-

- 1) The Commissioner of Central Goods & Services Tax, Haldia, 15/1, Strand Road, 7th Floor, MS Building, Custom House Kolkata-700001.
- 2) The Commissioner of Central Goods and Services Tax (Appeals-II), Bamboo Villa, 3rd Floor, 169, AJC Bose Road, Kolkata-700014.
- 3) The Assistant Commissioner, Haldia Div-I, Central Goods & Services Tax, Haldia, 15/1, Strand Road, 7th Floor, MS Building, Custom House Kolkata-700001.
- 4) M/s Royal Line Resources Ltd., 803, 8th floor, Palm Spring, Above Croma, Next to D Mart, Link Road, Malad (W), Mumbai- 400064.
- 5) S.B. Gabhawalla & Co., 802/803, Sunteck Grandeur, S.V. Road, Opp. Subway, Andheri (West), Mumbai 400058.
- 6) P.S. to A.S.
- 7) Guard file
- 8) Spare Copy

ATTESTED

(Debjit Banerjee)

Sr. Technical Officer

Mam
11/9/18

(निर्मला देवी / NIRMALA DEVI)
अनुभाषा अधिकारी / Section Officer
वित्त विभाग (राजस्व विभाग)
Ministry of Finance (Deptt. of Rev.)
सर्वोच्च सरकार / Govt. of India
नई दिल्ली / New Delhi