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SPEED POST



F.No. 198/10-C/2016-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..7.11.2018..

Order No. 610/18-Cx dated 3-11-2018 of the Government of India, passed by Shri R.P.Sharma, Principal Commissioner & Additional Secretary to the Government of India, under Section 35 EE of the Central Excise Act, 1944.

Subject : Revision Application filed under Section 35 EE of the Central Excise Act, 1944 against the Order-in-Appeal No. 26-43/KOL-III/2015 dated 06.11.2015, passed by the Commissioner of Central Excise (Appeals-1), Kolkata

Applicant : The Commissioner of Central Goods & Service Tax, Kolkata

Respondent : M/s Chemisol India Pvt. Ltd., Kolkata

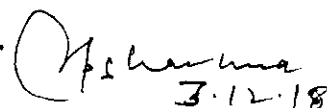
ORDER

A revision application No. 198/10-C/2016-RA dated 18.02.2016 is filed by the Commissioner of Central Excise, Kolkata (hereinafter referred to as the applicant) against the Order-in-Appeal No. 26-43/KOL-III/2015 dated 06.11.2015, passed by the Commissioner of Central Excise (Appeals-II), Kolkata, whereby the departmental appeal filed against the Order of the Assistant Commissioner granting rebate of duty to the respondent, M/s Chemisol India Pvt. Ltd., has been rejected.

2. The revision application is filed for some vague reasons such as the column regarding duty payment in the triplicate copies of the ARE-1s were either kept blank or crossed by the Range Superintendent and the Range officer did not certify the payment of duty even separately.
3. A personal hearing was offered in this case on 04.10.2018. But no one availed the personal hearing for the applicant and no request for any other date of hearing was also received from which it is implicit that the applicant is not interested in availing the personal hearing in this case. However, Mr. Debarghaya Ganguly, Director, availed the hearing for the respondent and he opposed the revision application on the ground that there is no dispute in this case regarding export of duty paid goods and, therefore, rebate of duty cannot be denied even if some procedural error has been committed by the Superintendent as is pointed out in the revision application.
4. The Government has examined the matter and it is observed that the revision application is filed after 04 days' delay and no application for condonation of delay explaining any reason for the delay is filed by the applicant. Hence, revision application filed after 3 months from receipt of Order-in-Appeal is time-barred in terms of Section 35EE of the Central Excise Act, 1944 and is liable for rejection for this reason alone. Further, there is also no merit in the revision application as the applicant has failed to establish as to how the granting of rebate of duty in this case is in violation of Rule 18 of Central Excise Rules and Notification No. 19/2004-CE dated 06.09.2014. On the contrary, the departmental appeal on above stated contentions was examined in detail by the Commissioner (Appeals) in detail by the

- Commissioner (Appeals) in his order and he has clearly observed that non endorsement by the Range Officer on the triplicate copies of AREs-I about payment of duty cannot be a ground to hold non-payment of duty particularly when there is no dispute regarding export of duty paid goods. The government also fully agrees with the Commissioner (Appeals) in this regard and does not find any strength in the revision application as there is no allegation regarding non-fulfilment of any of the condition as envisaged in the Rule 18 of the Central Excise Rules and notification no. 19/20014. Thus the revision application is entirely superfluous and no interference is warranted in the order of the Commissioner (Appeals).

5. In view of above discussion, the revision application is rejected.


3.12.18

(R.P.Sharma)

Additional Secretary to the Government of India

M/s Chemisol India Pvt. Ltd.,
65, Nainan Para Lane,
Kolkata-700036

Order No. _____ 610/18-Cx dated 03-12-2018

Copy to:

1. Commissioner of Central Goods & Service Tax, Kolkata-III Commissionerate, K.U.S. Bhawan, 180, Shantipally, Rajdanga Main Road, Kolkata-700107
2. Commissioner of Central Excise (Appeals-II), Bamboovilla, 4th Floor, 169, A.J.C. Bose road, , Bamboo Vill, Kolkata-700014
3. Additional Commissioner of Central Excise Kolkata-III Commissionerate, K.U.S. Bhawan, 180, Shantipally, Rajdanga Main Road, Kolkata-700107
4. PA to AS(RA)
5. Guard File
6. Spare Copy

ATTESTED



(Ashish Tiwari)

Assistant Commissioner