



REGISTERED  
SPEED POST

F.No. 198/10-A/2016-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. 7/12/18

ORDER NO. 6/6/18-Cx dated 4-12-2018 OF THE GOVERNMENT OF INDIA, PASSED BY SHRI R.P.SHARMA 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. LUD-EXCUS-000-APP-126-136-15-16 dated 20.11.2015 passed by the Commissioner (Appeals), Customs & Central Excise, Chandigarh

Applicant : Commissioner of Central Excise, Jalandhar

Respondent : M/s. JCT Limited

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**ORDER**

A Revision Application No. 198/10-A/2016-RA dated 02.03.2016 has been filed by Commissioner of Central Excise, Jalandhar, (herein after referred to as the applicant) against the order No. LUD-EXCUS-000-APP-126-136-15-16 dated 20.11.2015, passed by the Commissioner (Appeals), Customs & Central Excise, Chandigarh, whereby the appeal of the respondent, M/s JCT limited, for seeking rebate of duty in cash has been allowed.

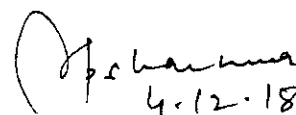
2. The above revision application has been filed mainly on the ground that rebate of duty in cash is wrongly allowed by the Commissioner (Appeals) as duty was paid on the exported goods from cenvat credit and not in cash and the Commissioners (Appeals) had earlier rejected the identical appeal of the respondent requesting rebate of duty in cash vide Order-in-Appeal No. JAL-EXCUS-000-APP-061-069-15-16.

3. A Personal hearing in this case was fixed on 09.10.2018, but it was not availed by the applicant as well as the respondent. Even no request for any other date of hearing was received from the applicant. However, the respondent had requested for adjournment of the hearing on 09.10.2018 and it was refixed on 25.10.2018 which was availed by Mr. Joy Kumar, Advocate, who mainly argued that the Government has already held in their own case vide its Order No. 388-412/2018-Cx dated 02.07.2018 that the rebate can be paid in cash only.

4. On examination of the revision application, the order in original and the Appellate order of the Commissioners (Appeals), it is observed that there is no dispute regarding admissibility of rebate of duty in this case and the same was sanctioned by the original adjudicating authority in the form of CENVAT Credit. The order of the Commissioner (Appeals) is challenged by the applicant only for the reason that rebate of duty should not have been granted in cash. But the Government does not find any substance in the revision application as the relevant legal provisions under Rule 18 of Central Excise Rules, 2002 and Notification No. 19/2004-CE (NT) dated 06.09.2004 for this matter do not provide anywhere that if the duty of Central Excise is paid from CENVAT credit for exported goods then rebate of duty is to be granted in CENVAT

credit account only. These two provisions talk of granting of rebate of duty only and the same can be possible only in cash and not in form of CENVAT credit as CENVAT credit can be availed and allowed only under CENVAT credit Rules, 2004 and there is no provision for availing or allowing CENVAT credit under Rule 18 of Central Excise Rules, 2002. Even the Central Board of Excise and Customs, an apex body to regulate the working of Central Excise related affairs, has clarified, vide its Circular No. 687/3/2003-cx dated 03.01.2003 issued from File No. 267/57/20020/cx-8, that there is no discretion with the sanctioning authority to give the refund of duty paid on the goods exported and duty paid through cenvat credit must be refunded in cash only. Even earlier the CBEC had clarified vide its Circular No. 153/64/95-cx dated 12.10.95, 262/96/96-cx dated 06.11.1996, 407/40/98-cx dated 15.07.1988 and 408/41/98-cx dated 20.07.1998 that the rebate of duty paid through MODVAT credit is to be paid in cash only. Hence, the applicant is eligible for rebate of duty in cash only and thus the Order-in-Appeal is legal and proper. Even earlier, the Government has taken the same view in the above referred Order No. 388-412/2018 dated 02.07.2018 in the case of M/s. JCT Limited itself.

5. Accordingly, the revision application is rejected.

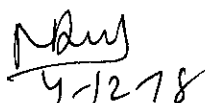


(R.P.SHARMA)

(Additional Secretary to the Government of India)

Commissioner of Central Goods & Service Tax,  
Jalandhar (Hq. at Ludhiana),  
CGST House, 'F' block, Rishi Nagar,  
Ludhiana 141001

ATTESTED



(Nirmla Devi)  
Section Officer (RA)

Order No. 616/18-Cx dated 4-12-2018

Copy to:-

1. M/s JCT Ltd., G.T. Road, Phagwara 144401 (Punjab).
2. The Commissioner (Appeals), Customs & Central Excise, Plot No. 19 Sector 17C, Chandigarh.
3. The Assistant Commissioner, Central Excise Division, Hargobind Nagar, Phagwara, Punjab.
4. Mr. Joy Kumar, Advocate, Flat No. 261/1, Sector 45 A, Chandigarh.
5. PS to JS (Revision Application)
6. Guard File
7. Spare Copy.