



REGISTERED
SPEED POST

F.No. 195/235/17-RA(CX)
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... 2/12/18

ORDER NO. 637/2018-CX dated 5-12-2018 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.

SUBJECT : Revision Application filed under section 35EE of the
Central Excise Act, 1944 against the Order-in-Appeal No.
53/CE/DLH/2017 dated 27.03.2017 passed by the
Commissioner of Central Excise (Appeals-I), Delhi.

APPLICANT : M/s Intact Drugs & Pharmaceuticals Pvt. Ltd., Panipat

RESPONDENT : Commissioner of Central Excise, Rohtak.

ORDER

A Revision Application No. 195/235/17-RA has been filed by M/s Intact Drugs & Pharmaceuticals Pvt. Ltd., Panipat (hereinafter referred to as the applicant) against the Commissioner(Appeal)'s Order-in-Appeal No. 53/CE/DLH/2017 dated 27.03.2017 rejecting the applicant's appeal filed before him against Order-in-Original No. 261-R/DC/CE/PNP/2015-16 dated 22/12/2015, passed by the Deputy Commissioner, Central Excise, Panipat.

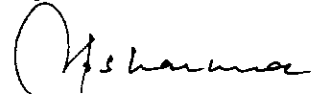
2. The brief facts of the case are that the applicant had filed a rebate claim of Rs. 2,61,862/- for the excise duty paid on exported goods out of which the rebate of Rs. 1,27,887/- is rejected by the original adjudicating authority and upheld by the Commissioner (Appeals) on the ground that the export was effected after a period of 6 months from the date of clearance of the goods from the factory.

3. A personal hearing was offered on 14/11/2018 which was availed by Sh. D. K. Singh, Advocate, on behalf of the applicant who reiterated the grounds of revision already pleaded in their revision application. However, no one appeared for the respondent and no request for any other date of hearing was also received from which it is implied that they are not interested in availing any personal hearing in this matter.

4. The government has examined the matter and observed that it is not in dispute that the goods in question were exported after a period of six months from the date of clearance of the goods from the factory of production. The applicant has claimed that the condition relating to export of goods within 6 months is just procedural in nature and the rebate of duty cannot be denied on this ground alone when there is no doubt regarding export of duty paid goods. On the other hand, the Commissioner (Appeals) has discussed this condition elaborately in his order and has held that the above condition relating to export of goods within 6 months is a substantive condition and it cannot be overlooked while considering the admissibility of rebate of duty. The government fully agrees with the Commissioner (Appeals)'s view as the said condition regarding export of goods within 6 months stipulated at Para 2(b) of Notification no. 19/2004-CE(NT) dated 06/09/2004 is substantive in

nature and the procedural conditions are stipulated in Para 3 of the said notification only. Moreover, the condition relating to export of goods within 6 months is not absolute in nature and could be extended by the jurisdictional Commissioner/Principal Commissioner on being convinced about the reasons for delay. But the applicant apparently did not approach the jurisdictional Commissioner/Principal Commissioner for relaxation of the specified time period and has now come up with an untenable plea that this condition is of procedural nature only. Since the mandatory condition of having exported the goods within 6 months' period or extended period has not been fulfilled in this case, the government does not find any reason to interfere with the order-in-appeal and rather agrees with the Commissioner (Appeals)'s order that the rebate of duty cannot be granted due to non-compliance of the above discussed mandatory condition.

5. Accordingly, the revision application filed by the applicant is rejected.


5.12.18

(R. P. SHARMA)

ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA

M/s Intact Drugs & Pharmaceuticals Pvt. Ltd.

Plot No. 35, Sector-25,

HUDA, G.T. Road,

Panipat-132 103

Copy to:- Order No 637/2018-Cx dt-5-12-18

1. The Commissioner of Central GST, 2nd Floor, Pacific City Centre, opposite Shangrila Hotel, Near Jat Bhawan, Delhi Bypass, Rohtak.
2. The Commissioner of Central Excise (Appeals- I), Delhi.
3. PS to AS(RA)
4. Guard File.

ATTESTED

(ASHISH TIWARI)
ASSISTANT COMMISSIONER