

REGISTERED
SPEED POST



F.No.198/213/2013-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...7/12/18

Order No. 645/2018-Cx dated 5-12-18 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.83/CE/DLH/2016 dated 20.04.2016 passed by the Commissioner (Appeals) Delhi

Applicant : Commissioner of CGST (East), Delhi

Respondent : M/s PRG International Electricals Pvt. Ltd., Delhi

ORDER

A Revision Application No. 198/213/2016-RA dated 10.10.2016 has been filed by the Commissioner of Central Excise, Delhi (hereinafter referred to as the applicant) against the Order-in-Appeal Nos. 83/CE/DLH/2016 dated 20/04/2016, passed by the Commissioner (Appeals), Delhi, whereby the respondent's appeals against the order-in-original has been allowed.

2. The brief facts leading to the present proceeding before the Government are that M/s PRG International Electricals Pvt. Ltd. had filed rebate claim of Rs.7,82,597/- under Rule 18 of Central Excise Rules, 2002, read with notification no. 19/2004-CE (NT) dated 06/09/2004, in respect of central excise duty paid on the goods exported to Nepal. Since one consignment of the respondent covered under ARE-I No. 16/2014-15 dated 18/05/2014 had met with an accident and got damaged, the original adjudicating authority rejected the rebate claim pertaining to this consignment for want of final observation of the Insurance Company. The respondent filed an appeal against this order-in-original before Commissioner (Appeals) who allowed the appeal and the present revision application has been filed against this order-in-appeal by the department mainly on the ground that the respondent should have reduced the value of the export goods by the insurance amount received by them resulting in reduction of the rebate accordingly.

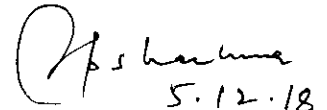
4. A personal hearing was offered on 10.10.2018 which was availed by Sh. J. K. Mishra, Assistant Commissioner, for the applicant and reiterated the grounds of revision already pleaded in their revision application. Sh. Shantanu Kumar, Advocate, appeared on behalf of the respondent and emphasized that the revision application is not maintainable for the reasons discussed by the Commissioner (Appeals) in the Order-in-Appeal dated 20/04/2016.

5. The government has examined the matter and it is observed that revision application has been filed after a delay of 60 days and in a note enclosed with the revision application the transfer and posting of the officers during May-June, 2016 and overburdening of staff due to large pendency of review cases are stated to be the reasons for the delay in filing the application. These reasons are

manifestly very vague and general in nature and cannot be considered as sufficient cause as is stipulated in Section 35EE(2) of Central Excise Act, 1944 which might have prevented the applicant for 60 days in filing the revision application in time. Therefore, this case does not deserve condonation of the long delay and the revision application is held to be time barred.

6. Besides above, the revision application is not maintainable on merit also as there is no dispute regarding export of duty paid goods even after the consignment had met an accident. Even the full export proceeds have been realized in this case. As regards non-submission of final report of insurance company, the Commissioner (Appeals) has already held it as irrelevant document for the purpose of grant of rebate of duty and the government does not find error in this view.

7. Accordingly, the revision application is rejected.


5.12.18
(R.P.Sharma)

Additional Secretary to the Government of India

Commissioner of CGST (East)
C.R.Building, I.P.Estate
New Delhi

GOI Order No. 645/18-Cx dated 5-12-2018

1. M/s PRG International Electricals Private Limited, B-43, Jhilmil Industrial Area, Delhi-110095
2. Commissioner of Central Excise (Appeals-I), Room No.134, C.R.Building, I.P.Estate, Delhi
3. The Deputy Commissioner of Central Excise, Division-VIII, Delhi-II, First Floor, Scope Minar, Lakshmi Nagar, Delhi-110092
4. P.S. to AS (RA)
5. Guard File

ATTESTED

(Ashish Tiwari)
Assistant Commissioner (RA)