

REGISTERED
SPEED POST



F.No.195/1628/12-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...13/12/18

Order No. 663/2018-Cx dated 7-12-18 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.286-CE/MRT-I/2012 dated 26.09.2012, passed by the Commissioner (Appeals), Meerut-I

Applicant : M/s Jubilant Life Sciences Ltd., Gajraula

Respondent : Commissioner of Central CG&ST, Noida

ORDER

A Revision Application No. 195/1628/12-RA(CX) dated 19.12.2012 is filed by M/s Jubilant Life Sciences Ltd., Gajraula (hereinafter referred to as the applicant) against the Order-in-Appeal No. 286-CE/MRT-I/2012 dated 26.09.2012, passed by the Commissioner (Appeals), Meerut-I, whereby the applicant's appeal filed against the original adjudicating officer's order has been rejected.

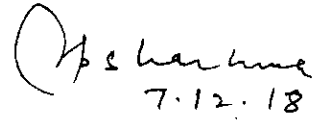
2. The revision application is filed mainly on the ground that sanctioning of rebate claims subject to the condition that BRC (Bank Realization Certificate) should be produced within stipulated period in terms of Boards Circular No. 354/70/97-CX dated 13.11.1997 is not supported by Rule 18 of Central Excise Rules, 2002 or Notification No. 19/2004-C.E.(N.T.) dated 6.9.2004 or CBEC Excise Manual of Supplementary Instruction, 2005 and thus the Order-in-Appeal is erroneous to this extent.

3. A personal hearing was held in this case on 06.09.2018 and it was availed by Shri J. Devarajan, Sr. V.P(Indirect Tax) on behalf of the applicant and Shri Nitish Karnatak, Assistant Commissioner, Div-I, CGST, NOIDA for the respondent. During the hearing Shri Devarajan mainly emphasized that BRC is not a statutory condition and even Hon'ble Allahabad High Court, vide its order dated 28.04.2014 reported as 2014-TIOL-605-HC-ALL-CX in the case of M/s Polyplex Corporation Ltd. Vs. Joint Secretary (Finance and others) and vide order dated 11.08.2016(Writ Tax No. 1484 of 2011) in their own case, has held that the rebate of duty cannot be denied on the basis of non-production of BRC and by following the Circular No. 354/70/97-CX dated 13.11.1997.

4. The Government has examined the matter and it is observed that in Rule 18 of Central Excise Rules, 2002 and Notification No. 19/2004-C.E.(N.T.) dated 6.9.2004 it

is nowhere stipulated that BRC will have to be produced either before or after grant of rebate of duty to the exporter of the goods. Even Excise Manual of Supplementary Instruction, 2005 also does not envisage any such condition and thus it is evident that the condition regarding production of BRC within 160 days from the date of sanction of rebate as specified in Circular no. 354/70/97-CX dated 13.11.1997 is not backed by any statutory provision. Even in the above mentioned Hon'ble Allahabad High Court's two decisions, it is clearly held that the rebate claim cannot be denied or restricted by applying the Circular no. 354/70/97-CX dated 13.11.1997 and an executive direction contained in the said Circular cannot prevail over the statutory provisions embodied in Rule 18 of Central Excise Rules, 2002 and Notification No. 19/2004-C.E.(N.T.) dated 6.9.2004. Accordingly, the Govt. agrees with the contention of the applicant that the Commissioner (Appeals) has committed an error by observing in his order that submission of BRC within 160 day from the sanction of the rebate claim is mandatory. Even otherwise also this issue is not having much relevance in this case as the applicant has claimed to have produced all the BRCs before the jurisdictional authorities.

6. In view of the above discussions, the Order-in-Appeal No.286-CE/MRT-I/12 dated 26.09.2012 is set aside and the revision application is allowed.


7.12.18

(R.P.Sharma)

Additional Secretary to the Government of India

M/s Jubilant Life Sciences Ltd.,
Head-Indirect Taxation, Plot No. 1-A,
Sector 16-A, NOIDA-201301.

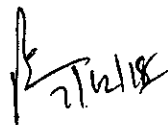
Order No. 663/18-Cx dated 7-12-2018

Copy to:-

1. Commissioner of Central Goods & Service Tax, Dehradun, 'E' Block, Nehru Colony, Haridwar Road, Dehradun-248001
2. Commissioner of Customs & Central Excise (Appeals), Meerut-I, Opp. CCS University, Mangal Pandey Nagar, Meerut- 250 005.
3. The Deputy Commissioner, Custom & Central Excise, 'E' Block, Nehru Colony, Haridwar Road, Dehradun-248001, Uttaranchal
4. PA to AS (Revision Application)
5. ~~Guard File~~ ✓

6. SPARE COPY

ATTESTED



(Ravi Prakash)

OSD (Revision Application)
