

REGISTERED
SPEED POST



F.No. 195/980/2013-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... 13/11/18

Order No. 686/18-Cx dated 10-12-2018 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. 108-137/CE/DLH/2013 dated 30.8.13, passed by the Commissioner of Central Excise (Appeals), Delhi-1

Applicant : M/s AVK Plast, Kirti Nagar, New Delhi

Respondent : Commissioner of Central Goods & Service Tax, Delhi (West)

ORDER

A revision application No.195/980/2013-RA dated 9.12.13 is filed by M/s AVK Plast, Kirti Nagar, New Delhi (hereinafter referred to as the applicant) against the Order-in-Appeal No.108-137/CE/DLH/2013 dated 30.8.13, passed by the Commissioner of Central Excise (Appeals), Delhi-1, whereby the applicant's appeal filed against the Order of the Assistant Commissioner of Central Excise, Division-III, New Delhi has been rejected.

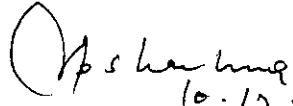
2. The revision application has been filed mainly on the ground that their rebate claims have been wrongly rejected as they have fulfilled all conditions of Rule-18 of Central Excise Rules, Notification No.19/2004-CE(NT) and BRC is not an essential document.

3. The hearing was held on 03.10.2018 and Shri Pradeep Kumar, Assistant Commissioner of Kirti Nagar Division appeared for the hearing on behalf of the respondent and emphasized that the OIA is fully correct and the revision application of the applicant is not maintainable. However, no one appeared 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 availing.

4. The Government has examined the matter and it is observed at the outset that the revision application dated 9.12.13 was not accompanied by a fee of Rs.1000/- which was required to be paid in this as per sub-Section 3 of Section 35EE of Central Excise Act. As per this Section a fee of Rs.1000/- is mandatorily to be accompanied along with the revision application where the amount of duty and interest demanded, fine or penalty levied by an Officer of Central Excise in the case to which the application relates is more than Rs.1.00 lakh. Since in this case the rebate of duty is Rs.12256478/- and the penalty is Rs.150000/-, a fee of Rs.1000/- was required to be paid before revision application was filed. But no fee was paid prior to filing of the application and consequently the revision application filed by the applicant in breach of the above statutory condition cannot be considered to have been filed properly and no authority has been empowered to condone non compliance of this condition. The said fee of Rs.1000/- was, however, paid

subsequently on 02.06.18 as per challan of Union Bank. But such late payment is not permitted under above Section and even if it is taken into account, the revision application will be considered to have been filed properly on 02.06.18 only when fee of Rs.1000/- was paid by which this application was badly hit by time limitation as revision application can be filed within 3 months of the communication of the Order-in-Appeal only which was received by the applicant on 10.9.13 itself. No request for condonation of the delay in this case has been made by the applicant and even otherwise the delay of more than 3 months cannot be condoned by the Government in any circumstance. Since the fee of Rs.1000/- was paid as late as on 02.06.18 as against the receipt of the OIA on 10.9.13, this revision application cannot be considered to have been filed properly and in time.

5. Accordingly, the revision application is rejected as non maintainable for the above discussed reason.


10.12.18
(R.P.Sharma)

Additional Secretary to the Government of India

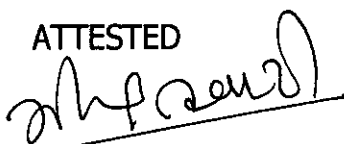
M/s AVK Plast,
E-88, 1st Floor,
Kirti Nagar,
New Delhi-110015

Order No. 686/18-Cx dated 10-12-2018

Copy to:

1. Commissioner of Central Goods & Service Tax, Delhi (West), 4th & 5th Floor, EIL Annexe Building, Bhikaji Cama Place, New Delhi-110066
2. Commissioner of Customs (Appeals), Delhi-1, Room No.134, C R Building, I.P.Estate, New Delhi.
3. Assistant Commissioner of Central Excise Division-III, 8 Deep Shikha Building, I.P.Estate, New Delhi.
4. PA to AS(RA)
5. Guard File
6. Spare Copy

ATTESTED



(Ashish Tiwari)

Assistant Commissioner