

REGISTERED  
SPEED POST



F.No.195/01/2014-RA(CX)  
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...13/12/18

Order No. 687/2018-Cx dated 10-12-18 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 Applications filed under Section 35 EE of the Central Excise Act, 1944 against the orders-in-appeals No. 163/CE/DLH/2013 dated 17.10.2013, passed by the Commissioner of Central Excise (Appeals), Delhi-I.

Applicant : M/s AVK Plast, New Delhi.

Respondent : The Commissioner of Central Goods & Service Tax, New Delhi.

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## ORDER

A Revision Application has been filed by M/s AVK Plast, 6/13, Ist First Floor, Kirti Nagar, Industrial Area, New Delhi-110015 (hereinafter referred to as the applicant) against the Orders-in-Appeal, passed by the Commissioner of Central Excise (Appeals), Delhi-I, whereby the applicant's appeals filed against the Original Adjudicating Officer's orders have been rejected.

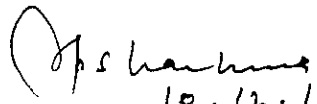
2. The above revision application is filed mainly on the ground that the rejection of their appeal and upholding of the order of the Original Adjudicating Authority by the Commissioner (Appeals) for the reason that the export proceeds in respect of the exported goods have not been realized is erroneous as BRC is not a relevant document for sanctioning of rebate of duty.

3. A Personal Hearing was offered in the case on 03.10.2018. But no one appeared for the applicant and no request for any other date of hearing was also received from which it is implied that the applicant is not interested in availing this hearing. However, the Assistant Commissioner of the CGST, Kirti Nagar Division, availed the hearing for the respondent on 03.10.2018 and emphasized that their rebate claims have been correctly rejected for non-submission of the BRCs.

4. The Government has examined the matter and it is observed that a amount of the rebate of duty of Rs. 56,85,134/- is rejected mainly on the ground that the BRCs were not produced as per CBEC Board's Circular No. 354/70/97 dated 13.11.1997. But the Government has found that even the above Circular does not specify that for sanctioning of rebate of duty the BRC is an essential document. Moreover, in Rule 18 of Central Excise Rules, 2002 or Notification No.19/2004-C.E.(N.T.) dated 6.9.2004 it is nowhere stipulated that rebate of duty will be sanctioned only if the BRC is

produced along with the Rebate claim. In fact in these relevant legal provisions it is nowhere envisaged that BRC will have to be produced either before or after grant of rebate of duty on the exported goods. Even Excise Manual of Supplementary Instruction, 2005 does not mention any such condition. Further the Hon'ble Allahabad High Court in its two decisions in the case of Polyplex Corporation Ltd. Vs. Joint Secretary (Finance) & Others, reported as 2014-TIOL-605-HC-AllCX, and in the case of M/s Jubilant Life Sciences Limited Vs. Union of India and others, Writ No.1484 of 2011, dated 11.08.2016 has categorically 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. Accordingly, rebate of duty is admissible to applicant since all the conditions of rule 18 and Notification No. 19/2004-C.E.(N.T.) have been submitted and the Government agrees with the contention of the applicant that the Commissioner (Appeals) has committed an error by upholding the Order-in-Original.

5. In view of the above discussions, the Order-in-Appeal No. 163/CE/DLH/2013 dated 17.10.2013 is set aside and the revision application is allowed.

  
10.12.18

**(R.P.Sharma)**

**Additional Secretary to the Government of India**

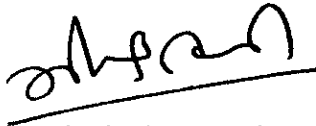
M/s AVK Plast,  
6/13, Ist First Floor,  
Kirti Nagar, Industrial Area,  
New Delhi-110015

Order No. 687 /18-Cx dated 16-12-2018

Copy to:-

1. The Commissioner of Central Goods & Service Tax, Delhi-I, New Delhi.
2. The Commissioner of Central Excise (Appeals-I), C.R.Building, I.P.Estate, New Delhi-110001.
3. PA to AS (Revision Application)
4. Guard File

ATTESTED



(Ashish Tiwari)

ASSISTANT COMMISSIONER (Revision Application)