

F. No. 196/15-17/ST/2017-R.A.

REGISTERED
SPEED POST



F.No. 196/15-17/ST/2017-RA
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

14, HUDCO VISHALA BLDG., B WING
6th FLOOR, BHIKAJI CAMA PLACE,
NEW DELHI-110066

Date of Issue..13/04/18

Order No. 68-70/2018-ST dated 07-12-18 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 read with Section 83 of Finance Act, 1994.

Subject : Revision Application filed under section 35 EE of the Central Excise Act, 1944 read with Section 83 of Finance Act, 1994 against the Order-in-Appeal No.209-211/ST/DLH/2017-18 dated 30.05.2017 passed by Commissioner Central Excise (Appeals-I), Kolkata

Applicant : M/s. Providence Equity Advisors India Ltd., New Delhi

Respondent : Commissioner of Central Tax, Delhi South Commissionerate

ORDER

A revision application No.196/15-17/ST/17-R.A. dated 14.9.2017 has been filed by M/s. Providence Equity Advisors India Ltd., New Delhi (hereinafter referred to as the applicant) against the Order-in-Appeal No. 209-211/ST/DLH/2017-18 dated 30.05.2017, passed by the Commissioner of Service Tax (Appeals-I), Delhi, whereby the appeals of the applicant filed against the Orders of the jurisdictional Assistant Commissioner have been rejected.

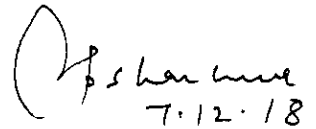
2. The revision application is filed mainly on the ground that the Commissioner (Appeals) has erred in not appreciating the term 'turnover' for computing the refund amount under Rule 5(1) of CCR and their refund claim has been wrongly rejected.

3. A personal hearing was fixed in this case on 4.9.18. Shri Gagan Kumar, Advocate, appeared on behalf of the applicant and reiterated the grounds of revision already pleaded in their application. However, no one appeared for the respondent.

4. The Government has examined the matter and it is observed that the revision application involves the issue regarding refund of accumulated Cenvat Credit under Rule 5 of the Cenvat Credit Rules 2004. Whereas under Section 35EE of the Central Excise Act, read with 1st proviso to Section 35(B), the revision application can be filed with the Government only if the Commissioner (Appeals)'s Order involves an issue relating to loss of goods, rebate of duty on exported goods or goods exported under bond. Since no such issue is involved in this case and the Commissioner (Appeals)'s Order is passed upholding rejection of refund of Cenvat credit under Rule 5 of CCR by the jurisdictional Assistant Commissioner, the Government is of the view that it does not have jurisdiction to deal with the above referred Commissioner (Appeals)'s Order. The applicant has placed reliance on CESTAT's Order No.51135/2018 dated 3.4.18 in the case of M/s Providence Equity Advisors India Ltd., Order No.A/87789/2016/SMB dated 10.2.2016 in the case of Q Logic India (P) Ltd., Order No.A/85103-85104/2016-WZB/SMB dated 1.1.2016 in the case of CCE, Pune Vs. Aam Services India Pvt. Ltd. and Order

No.40247-40265/2016 dated 15.2.2016 in the case of Cognizant Technology Solutions. However, these Orders are not found relevant by the Government as it has no jurisdiction to deal with the present revision application on merit. Instead, the above four decisions support the Government's view that it does not have jurisdiction in the matter in as much as the four decisions involving the issue regarding refund of accumulated CENVAT credit are decided by the CESTAT and not by the Government.

5. Accordingly, the revision application is rejected.


7.12.18

(R. P. Sharma)

Additional Secretary to the Government of India

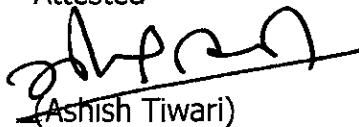
M/s. Providence Equity Advisors India Ltd.
S-217, Panchsheel Enclave
New Delhi-110017

G.O.I. Order No.68-70/18-ST dated 7-12-2018

Copy to:-

1. Commissioner of Central Tax, Delhi South Commissionerate, EIL Annexe Building, Bhikaji Cama Place, R.K.Puram, New Delhi.
2. Commissioner of Service Tax (Appeals-1), New Delhi, Room No.5, Lower Ground Floor, EIL Annexe Building, Bhikaji Cama Place, R.K.Puram, New Delhi.
3. The Assistant Commissioner of Service Tax, Division-II, Delhi-1 Commissionerate, 17-B, IAEA House, M.G.Road, I.P.Estate, New Delhi-110002
4. PA to AS(Revision Application)
5. Guard File
6. Spare Copy.

Attested


(Ashish Tiwari)

Assistant Commissioner