

REGISTERED  
SPEED POST



F. No. 196/25/ST/2013-RA  
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.....

Order No. ~~74/2018~~-S.T. dated ~~24-12-2018~~ of the Government of India, passed by Shri R.P. Sharma, Principal Commissioner and Additional Secretary to the Government of India, under Section 35EE of the Central Excise Act, 1944 read with Section 83 of the Finance Act, 1994.

Subject : Revision Application filed under Section 35EE of the Central Excise Act, 1944 read with Section 83 of the Finance Act, 1994 against the Order-in-Appeal No. 196/S.Tax/D-II/2013 dt. 03.09.2013, passed by the Commissioner of Central Excise (Appeals), Delhi-I, New Delhi.

Applicant : M/s Broadridge Financial Solutions (India) P. Ltd., New Delhi.

Respondent: The Commissioner of Service Tax, Delhi South.

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**ORDER**

A Revision Application no. 196/25/ST/2013-RA dt. 20.12.2013 is filed by M/s Broadridge Financial Solutions (India) P. Ltd. (hereinafter referred to as applicant) against Order-In-Appeal no. 196/S.Tax/D-II/2013 dt. 03.09.2013, passed by the Commissioner of Central Excise (Appeals), Delhi-I, New Delhi, whereby the applicant's appeal has been dismissed and the Order-in-Original rejecting the rebate claims of the applicant has been upheld.

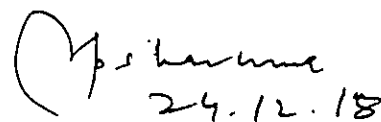
2. The Revision application has been filed mainly on the grounds that non-filing of declaration as per Para 3.1 of the Notification no. 12/2005-S.T. is a procedural lapse only and substantive benefit of rebate of Service Tax cannot be denied on this ground alone.

3. The Revision Application was examined earlier and it was rejected by the Government vide Order no. 26/2018-ST dt. 12.03.2018 without going into merit of the case on the ground that the Revision Application was filed beyond limitation period of three months and the applicant had not properly explained the reason of delay. The said order was challenged before the Delhi High Court and allowing the writ petition the High Court, vide its Order dt. 25.09.2018, directed to condone the delay, hear the matter on its merit and pass a reasoned order expeditiously. Accordingly, the proceeding was resumed and a hearing was held on 04.12.2018 which was availed by Mr. Onkar and Mr. Purushotam Reddy, advocates, for the applicant who reiterated the above discussed grounds of Revision Application. They also placed reliance on Government of India's Order in the case of Allansons Ltd., 1999(111) E.L.T. 295(G.O.I.), and Delhi High Court's decision in the case of Wipro Ltd., 2013 (29) S.T.R. 545 (Del.).

4. The Government has examined the matter and it is observed that there is no dispute regarding export of services, use of duty paid input services etc., substantial compliance of Notification no. 12/2005-S.T. dt. 19.04.2005 and the rebate of Service Tax has been rejected on the sole ground that the applicant did not declare the

exported services with description, quantity, value and amount of duty payable on inputs and input services etc. in terms of Para 3 of the Notification no. 12/2005-ST. Non-declaration of said declaration is accepted by the applicant also and it is claimed that they had inadvertently failed to file the declaration prior to export of services. But subsequently for the period Oct. 2009 to March 2011 they had furnished the declarations and non-filing of the said declaration is merely a procedural lapse on their part for which rebate of tax should not be denied. The Government finds merit in this contention of the applicant as it is evident from Notification no. 12/2005-S.T. that the requirement of filing of declaration is specified under Para 3 under the heading "Procedure" and the mandatory conditions are stipulated in Para 2 of the said Notification under the heading "Conditions and Limitations". Moreover, when declarations were filed with jurisdictional authorities, no instance of any misdeclaration of the required particulars or any evasion of Service Tax has been pointed out. Thus, non-declaration of some details is just used as a pretext for denial of the Service Tax without having any substantive reason which is against the policy of the Government to provide rebate of Service Tax in respect of exported services, and several decisions of various courts and Government of India as per which such substantive benefits cannot be denied merely for technical reasons. The claim of the applicant is also supported by Delhi High Court's decision in the case of Wipro Ltd., Government of India's Order in the case of Allansons Ltd., Supra, and several other decisions referred to in the Revision Application. Accordingly, the Government finds that the Commissioner (Appeals) has passed an erroneous order by denying the rebate of Service Tax to the applicant for small lapse of non-filing of declaration of inputs etc.

5. In view of the above discussions, the Order-in-Appeal is set aside and the Revision Application is allowed.

  
24.12.18

(R.P. Sharma)

Additional Secretary to the Government of India

M/s Broadridge Financial Solutions (India) P. Ltd.,  
Unit no. S2 & S3, Genesis Building, A-32,  
Mohan Industrial Estate, Mathura Road, New Delhi-110044

GOI ORDER No. <sup>74/18</sup> S.T. dt. 24-12-2018

Copy to-

- 1) The Commissioner of Service Tax, Delhi South, 2<sup>nd</sup> and 3<sup>rd</sup> Floor, EIL Annexe Building, Plot 2-B, Bhikaji Cama Place, New Delhi- 110066.
- 2) The Commissioner of Service Tax (Appeals), First Floor, EIL Annexe Building, Pfo 2-B, Bhikaji Cama Place, New Delhi- 110066.
- 3) The Assistant Commissioner of Service Tax, Division Okhla, 14-15, 5<sup>th</sup> Floor, Farm Bhawan, Nehru Place, New Delhi-110019.
- 4) Mr. Ashwani Pahwa, CA and Mr. Purushotam Reddy, CA, 6<sup>th</sup> floor, Orwell, Salarpuria Knowledge City, Unit-3, Sy No. 83/1, Plot no. 2, Raidurg, Hyderabad-500081.
- 5) P.S. to A.S (R.A.).
- 6) Guard file
- 7) Spare Copy

ATTESTED



(Ravi Prakash)

O.S.D. (R.A.)