

**SPEED POST**



F. No. 199/04/ST/2020—R.A.  
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 02/02/22

Order No. 19 /22-ST dated 02-02-2022 of the Government of India, passed by Shri Sandeep Prakash, 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. 81/ST/DLH/2019 dated 22.11.2019 passed by the Commissioner (Appeals-I), CGST, Delhi.

Applicant : The Commissioner, CGST, Delhi East.

Respondent : M/s Ananda Books (A division of RSD Software Services Pvt. Ltd.), New Delhi.

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**ORDER**

A Revision Application No. 199/04/ST/2020-R.A. dated 22.05.2020 has been filed by the Commissioner, CGST, Delhi East (hereinafter referred to as the Applicant department) against the Order-in-Appeal No. 81/ST/DLH/2019 dated 22.11.2019 passed by the Commissioner (Appeals-I), CGST, Delhi. The Commissioner (Appeals) has, vide the impugned Order-in-Appeal, allowed the appeal of M/s Ananda Books (a division of M/s RSD Software Services Pvt. Ltd.), New Delhi (hereinafter referred to as the Respondent) against the Order-in-Original No. 30-32/ANS/Assistant Commissioner/ST Refund/2019 dated 18.04.2019, passed by the Assistant Commissioner, CGST, Delhi East.

2. The facts leading up to the present revision application are that the Respondents are a division of M/s RSD Software Services Pvt. Ltd., who were registered under Service Tax. The Respondents filed refund claims in respect of service tax paid on input services, namely, courier services, utilized in export of books to their foreign buyers situated outside India. The refund claims, preferred in terms of Notification No. 41/2012-ST dated 29.06.2012, pertaining to the quarters 01.10.2016 to 31.12.2016, 01.01.2017 to 31.03.2017 & 01.04.2017 to 30.06.2017, totally amounted to Rs. 16,79,045/-. The original authority rejected the refund claims on the grounds that:

- (i) The Respondents had failed to follow the provisions of Notification No. 41/2012-ST in order to file the claim as a merchant exporter.
- (ii) The courier services have been provided at the place of receiver who is located outside India and, therefore, service tax is not payable thereon. As such, the services in respect whereof the refund has been claimed, cannot be termed as a 'specified services' for the purpose of the notification.

The Commissioner (Appeals), however, allowed the appeal of the Respondent herein on both the grounds.

3. The revision application has been filed stating that the IEC code submitted by the Respondents is actually the IEC of the M/s RSD Software Services Pvt. Ltd.; that as per the provisions of Notification No. 41/2012-ST in order to file refund claim, the merchant exporter shall register his service tax code no. with Customs; that the service tax code no. shall be obtained by filing a declaration in form A-2 to the Assistant/Deputy Commissioner of Central Excise; that in this case, this provision of notification has not been followed by M/s Ananda Books and no separate service tax code had been taken; and that on going through the Shipping Bill submitted by the Respondents in respect of various exports it is observed that one of the conditions of the notification has not been followed to the extent that exporter shall make a declaration in the electronic shipping bill while the rebate of service tax on the specified service is claimed as a percentage of the declared FOB value of the said goods on the basis of rate specified in the schedule. It is further stated that the Shipping Bill and the proof of remittances are in the name of M/s RSD Software Pvt. Ltd. Therefore, the Order-in-Appeal may be set aside. A Written Reply dated 21.08.2020 has been filed by the Respondents.

4. Personal hearings, in virtual mode, were fixed on 24.12.2021, 07.01.2022 & 31.01.2022. No one appeared for the Applicant department nor any request for adjournment has been received. In the virtual hearing held on 31.01.2022, Sh. Ankur Jain, Advocate appeared for the Respondent and reiterated the contents of the Written Reply dated 21.08.2020. Since sufficient opportunities have been granted to the Applicant department, the matter is taken up for disposal based on records.

5. The Government has carefully examined the matter. It is observed that out of the two issues based on which the original authority had rejected the refund claims, only issue which is agitated in the instant revision application is regarding the non-compliance with the conditions of the notification. The alleged non-compliance is premised upon a view that M/s Ananda Books and M/s RSD Software Services Pvt. Ltd. are two separate entities. In their Written Reply, the Respondents have brought out that M/s Ananda Books is a division of M/s RSD Software Ltd. as is evident from the centralized service tax registration and IEC issued to M/s RSD Software Services

Pvt. Ltd. It is also stated that the export goods were procured by the Ananda Books, the invoices were issued by Ananda Books and payments thereof also were received in the accounts in the name of Ananda Books. The payments for the services received, i.e., the courier services have also been made from the accounts in the name of Ananda Books. It is further brought out that the refund claims for the past periods have been sanctioned by the department without raising any of these issues. The Government has perused the IEC certificate issued by the DGFT to M/s RSD Software Services Pvt. Ltd. where Ananda Books is indicated as a branch/division of M/s RSD Software. Similarly, the service tax registration also indicates Ananda Books as an additional place of business. Further, it is evident from the correspondence exchanged between the department and the Respondent that the Respondent is addressed, all through, as a division of M/s RSD Software Services Pvt. Ltd. by the department itself. It is also brought out by the Respondent, and is undisputed by the department, that refund claims for the previous period have been, in similar circumstances, sanctioned to M/s Ananda Books by the original authority itself. No reasons are forthcoming supporting a change of stance by the department. As such, the Government does not find any infirmity in the impugned Order-in-Appeal.

6. The revision application is rejected.

  
(Sandeep Prakash)

Additional Secretary to the Government of India

The Commissioner of CGST, Delhi East,  
C.R. Building, I.P. Estate,  
New Delhi – 110109.

G.O.I. Order No. 19/22-ST dated 02-02-2022

Copy to: -

1. M/s Ananda Books (a division of M/s RSD Software Services Pvt. Ltd.), D-16, Kalindi Colony, New Delhi – 110065.
2. The Commissioner (Appeals-I), CGST, C.R. Building, I.P. Estate, New Delhi – 110109.
3. Sh. Ankur Jain, Advocate, M/s Treslaw, B 125, Block B, Sector 52, Noida, Uttar Pradesh 201301.

4. PA to AS (Revision Application).
5. Spare Copy.
6. Guard File.

ATTESTED

*Gulshan Bhatia*  
02/02/2022

**GULSHAN BHATIA**  
Superintendent