

SPEED POST



F.No. 198/11/2019-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..17/12/21...

Order-No. 262/2021-CX dated 17-12-2021 of the Government of India, passed by **Sh. Sandeep Prakash**, 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 Order-in-Appeal No. 10/HAL/CE/2019-20 dated 16.04.2019 passed by the Commissioner(Appeals-II), CGST & CE, Kolkata.

Applicants : The Commissioner of CGST & CE, Haldia..

Respondent : M/s IVL Dhunseri Petrochem Industries Pvt. Ltd., Kolkata.

ORDER

A revision application no. 198/11/2019-R.A. dated 14.08.2019 has been filed by the Commissioner of CGST & CE, Haldia (hereinafter referred to as the Applicants) against the Order-in-Appeal no. 10/HAL/CE/2019-20 dated 16.04.2019 passed by the Commissioner (Appeals-II), CGST & CE, Kolkata, whereby the Commissioner (Appeals) has allowed the appeal filed by the Respondents, M/s IVL Dhunseri Petrochem Industries Pvt. Ltd., Kolkata against the Order-in-Original No. 44/R-IV/HAL-II/IVL DPIPL/2018-19/5097 dated 28.11.2018, passed by the Assistant Commissioner, CGST & CE, Haldia-II Division.

2. Briefly stated, the Respondents had submitted four rebate claims before the jurisdictional excise authorities in respect of their manufactured goods, namely, Polyester Chips and Polyethylene Terephthalate (CETH 39076090) in terms of Notification No. 19/2004-CE(NT) and 21/2004-CE(NT), both dated 06.09.2004 issued under Rule 18 of the Central Excise Rules, 2002. The original authority granted the rebate of Rs. 34,00,43,690/- pertaining to duty paid on final products exported but rejected claims of rebate of Rs. 22,61,09,976/- of excise duty paid on inputs used in the manufacture of such final products exported. Aggrieved, the Respondents filed an appeal before Commissioner (Appeals), who, vide Order-in-Appeal No. 128-145/HAL/CE/2018-19 dated 30.08.2018 set aside the rejection of rebate claims on duty paid on inputs used in the manufacture of final products. Based on this Order-in-Appeal dated 30.08.2018, the Respondents herein filed a claim for the earlier rejected amount along with interest on 25.09.2018. The original authority sanctioned the amount vide Order-in-Original dated 28.11.2018 and held that interest clause for the delayed refund is not applicable in this case as the subject claim has been sanctioned within the stipulated period of three months from the date of receipt of application of rebate. The respondents again filed an appeal

before the Commissioner (Appeals), who, vide the impugned Order-in-Appeal, allowed the appeal of the Respondents wherein they had claimed interest on the delayed payment of their rebate.

3. The revision application has been filed, mainly, on the ground that Order-in-Original sanctioning the rebate was passed within three months of passing of Order-in-Appeal favouring sanction of rebate. Hence, the payment of interest in this case is not tenable and the Order of the Commissioner (Appeals) merits revision.

4. Personal hearing was granted on 10.11.2021, 01.12.2021 and 17.12.2021, in virtual mode. None appeared for the Applicant department nor any request for adjournment has been received. Sh. Rahul Dhanuka, Advocate and Sh. M. S. Singhanian, Advocate appeared for the Respondents on 10.11.2021 and filed written submissions dated 09.11.2021 via email which were taken on record. Subsequently, Sh. Arvind Baheti, Advocate appeared on 01.12.2021 and 17.12.2021 and drew attention to the Written Submissions filed vide email dated 09.11.2021. He highlighted that the interest in dispute has already been sanctioned by the original authority and hence the present proceedings have become infructuous. 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. In the present case, the rebate claims were filed on 11.05.2017 and 22.05.2017, which were partly sanctioned. Thereafter, the Commissioner (Appeals), vide OIA dated 30.08.2018, allowed the rebate in full. Pursuant thereto, the Respondents herein, claimed the balance rebate amount with interest vide communication dated 25.09.2018. The original authority has denied the interest by treating 25.09.2018 as the date of filing the claim. However, as correctly pointed out by the Commissioner (Appeals), the rebate claims in

question were filed on 11.05.2017 and 22.05.2017 and not on 25.09.2018. The communication dated 25.09.2018 is nothing but a request to release the rebate amount along with interest in compliance with the Order of Commissioner (Appeals). Hence, the Government does not find any infirmity in the impugned Order-in-Appeal. In any case, the interest in question is stated to have been sanctioned to the Respondents, vide Order-in-Original no. 18/Tech/Refund/IVL Dhunseri/Hal-II/2019-20 dated 18.03.2020.

6. In view of the above, the revision application is rejected.


(Sandeep Prakash)

Additional Secretary to the Government of India

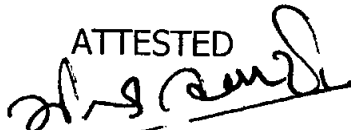
The Commissioner, CGST & CE, Haldia Commissionerate,
15/1, Strand Road, 7th Floor, M.S. Building, Customs House,
Kolkata-700 001

G.O.I. Order No. 262 /21-CX dated 17-12-2021

Copy to: -

1. M/s IVL Dhunseri Petrochem Industries P. Ltd., Dhunseri House, 4 A, Woodburn Park, Kolkata – 700 020.
2. The Commissioner (Appeals-II), CGST & CE, Kolkata, 169, A.J.C. Bose Road, Bamboo Villa, 3rd & 4th Floor, Kolkata – 700 014.
3. P.S. to A.S. (Revision Application).
4. Guard File.
5. Spare Copy.

ATTESTED



Ashish Tiwari
(Assistant Commissioner)