

SPEED POST



F.No. 195/187/2018-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. 20/12/21

Order No. 288/21-Cx dated 20-12-2021 of the Government of India passed by Sh. Sandeep Prakash, Principal Commissioner & Additional Secretary to the Government of India, under Section 35EE of the Central Excise Act, 1944.

Subject : Revision Application filed, under Section 35EE of the Central Excise Act, 1944 against the Order-in-Appeal No. 22/CE/BBSR-GST/2018 dated 20.02.2018, passed by the Commissioner (Appeals), CGST, Central Excise & Customs, Bhubaneshwar.

Applicant : M/s Hindustan Urban Infrastructure Ltd., Khorda, Odisha.

Respondent : The Commissioner of CGST & Central Excise, Bhubaneshwar.

**ORDER**

A Revision Application No. 195/187/2018-RA dated 06.06.2018 has been filed by M/s Hindustan Urban Infrastructure Ltd., Khorda, Odisha (hereinafter referred to as the Applicants) against the Order-in-Appeal No. 22/CE/BBSR-GST/2018 dated 20.02.2018, passed by the Commissioner (Appeals), CGST, Central Excise & Customs, Bhubaneshwar. The Commissioner (Appeals) has, on an appeal filed by the department, i.e., Respondent herein, set aside the Order-in-Original No. 52(52)/CE/BBSRDIVN/HUIL/CE/REBATE/2016 dated 15.07.2016 passed by the Assistant Commissioner of Central Excise, Customs & Service Tax, Bhubaneshwar Division.

2. Briefly stated, the Applicants herein had exported "Transmission Cables" and submitted a rebate claim of Rs. 2,14,889/-, under Rule 18 of the Central Excise Rules, 2002 read with Notification No. 19/2004-CE (NT) dated 06.09.2004, in respect of Central Excise duty paid on exported goods. The rebate claim was sanctioned by the original authority, vide aforesaid Order dated 15.07.2016. The department filed an appeal before the Commissioner (Appeals), inter-alia, on the grounds that the rebate claim was barred by limitation as the export had been made on 04.05.2015 whereas complete refund claim was submitted on 03.06.2016. The Commissioner (Appeals) allowed the appeal filed by the department and set aside the Order-in-Original dated 15.07.2016.

3. The revision application has been filed, mainly, on the grounds that the goods were removed from the factory against ARE-1 dated 24.04.2015 and were put on board the vessel on 04.05.2015; that they had filed a rebate claim for Rs. 2,14,889/- vide application dated 29.04.2015; that however, based on the query raised by the department, certain other documents were submitted on 03.06.2016; and that the refund claim is valid if supporting documents are submitted later.

4. Personal hearing, in virtual mode, was held on 20.12.2021. Sh. Laxmikant Acharya, Advocate and Sh. Dinesh Gupta, Authorised Signatory appeared for the

Applicant. Upon being asked, Sh. Acharya submitted that the deficiencies have not yet been complied. The balance Application Fee has also not been paid. None appeared for the Respondent department nor any request for adjournment has been received.

5. The Government has carefully examined the matter. It is observed that the instant revision application has been filed without the full application fee of Rs. 1000/- and Court Fee Stamps of Rs. 5/-. Further, the copy of Order-in-Appeal, which is impugned herein, has also not been appended to the revision application. Furthermore, the revision application has been filed with a delay but no condonation of delay application has been submitted by the Applicant. These deficiencies were brought to the notice of the Applicant for corrective action, vide office letters dated 24.10.2018, 19.03.2021, 20.10.2021, 16.11.2021 and 06.12.2021. However, the deficiencies have not been rectified. After the personal hearing was held, copies of certain documents have been received on e-mail, yet the shortfall in Application Fee, i.e., an amount of Rs. 800/- has not been paid till date nor have the Court Fee Stamps been submitted. As per sub-section (3) of Section 35EE of the Central Excise Act, 1944, a revision application "*shall be accompanied by a fee of,- (b) one thousand rupees, where<sup>(a)</sup> the amount of duty and interest demanded, fine or penalty levied by any Central Excise officer in the case to which the application relates is more than one lakh rupees*". In the present case, the fee of only Rs. 200/- has been deposited. The requirement of application being accompanied by the requisite fee is mandatory in nature. Further, there are other deficiencies also, which have not been removed, till date, despite constant follow up over a period of three and a half years. The Government is also constrained to observe that the Applicants have acted in such a cavalier manner that a copy of Order impugned herein itself has not been furnished alongwith the revision application. Therefore, it is apparent that this application is merely a proforma exercise and the Applicants are not interested in pursuing the remedy on merits.

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

  
(Sandeep Prakash)

Additional Secretary to the Government of India

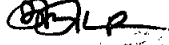
M/s Hindustan Urban Infrastructure Ltd.,  
Plot No. 321, 325/1386, Champajhara,  
Malipada, Khorda (Odisha) – 752 108.

Order No. 288/21-Cx dated 20-12-2021

Copy to:

1. The Commissioner of CGST & Central Excise, Bhubaneswar, CR Building, (GST Bhawan), Rajaswa Vihar, Bhubaneswar (Odisha) – 751 007.
2. The Commissioner (Appeals), CGST, Central Excise & Customs, Bhubaneswar, C.R. Building (GST Bhawan), Rajaswa Vihar, Bhubaneswar, Odisha – 751 007.
3. Sh. Laxmikant Acharya, Advocate.
4. PA to AS(RA).
5. Guard File.
6. Spare Copy.

ATTESTED

  
(लक्ष्मी राघवन)  
(Lakshmi Raghavan)  
अनुभाग अधिकारी / Section Officer  
वित्त मंत्रालय (राजस्व विभाग)  
Ministry of Finance (Deptt. of Rev.)  
भारत सरकार / Govt. of India  
नई दिल्ली / New Delhi