

SPEED POST



F. Nos. 196/06/ST/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..27/12/21.....

Order No. 35/21- ST dated 27-12-21 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. CC (A)/CUS/D-II/ICD/TKD/Exp/825/19-20 dated 22.11.2019 passed by the Commissioner of Customs (Appeals), New Delhi.

Applicant: M/s Greenlam Industries Ltd., Alwar, Rajasthan.

Respondent: The Commissioner of Customs (Exports), ICD, Tughlakabad, New Delhi.

ORDER

A Revision Application No. 196/06/ST/2019-R.A. dated 31.12.2019 has been filed by M/s Greenlam Industries Ltd., Alwar, Rajasthan (hereinafter referred to as the Applicants) against the Order-in-Appeal No. CC (A)/CUS/D-II/ICD/TKD/EXP/825/19-20 dated 22.11.2019 passed by the Commissioner of Customs (Appeals), New Delhi whereby the Commissioner(Appeals) has upheld the Order-in-Original No. 1951/GS/2017 dated 27.04.2017 passed by the Assistant Commissioner of Customs (Export), Inland Container Depot, Tughlakabad, New Delhi.

2. The facts leading up to the present revision application are that the Applicants were engaged in the manufacture and export of Decorative Laminated Sheets falling under CETH 44121310 and 48239019 of the Schedule to the Central Excise Tariff Act, 1985. They filed rebate claims, amounting to Rs. 11,99,937/-, in respect of Service Tax paid on the services of CHA, Clearing & forwarding Agent and Transportation Service of export goods by rail, received and used for export of their finished goods, in terms of Notification No. 41/2012-ST dated 29.06.2012. The said claims were rejected by the original authority on the ground that the Applicant had not made a declaration in the electronic shipping bill or bill of export

regarding rebate of service tax paid on the specified services as required under Para 2 of the said Notification. Aggrieved, the Applicants filed an appeal before the Commissioner (Appeals), who, vide the impugned Order-in-Appeal, rejected it.

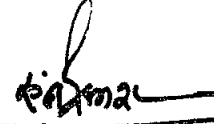
3. The instant revision application has been filed, mainly, on the grounds that the required 'declaration' could not be filed at the time of filing the Shipping Bills electronically as there was no such option available in the system during the relevant period. Since it is a procedural lapse, the substantial benefit of refund should not be denied for its infraction.

4. Personal hearings in the matter was held on 24.12.2021, in virtual mode. Sh. Arun Goyal, Advocate, appeared for the Applicants and requested that the Synopsis filed by email on 24.12.2021 be taken on record. He reiterated the contents of the RA and the synopsis filed. Sh. Goyal highlighted that at the relevant time, the ICEGATE filing of electronic shipping bills was at a nascent stage and the facility for claiming rebate electronically was not available. The glitches in the System are noticed and observed in the case of Bajaj Overseas [2018 (15) GSTL 473 (GOI)]. Sh. Sushil Kumar, Superintendent, appearing for the department submitted that the Applicants needed to make a declaration on the electronic Shipping Bill that the

export is under rebate, which was not done. Hence, rejection of rebate claim is in order.

5. The Government has carefully examined the matter. It is observed that the rebate of service tax is denied by the lower authorities on the grounds of not making a declaration on the electronic shipping bills that the Applicants would be claiming rebate, as per Para 2 of Notification No. 41/2012-ST dated 29.06.2012. It is further observed that the rebate claim for the period of July 2013 to September 2013 was first filed with the Assistant Commissioner, Central Excise, Alwar, which was rejected, vide OIO No. 191/R/2014 dated 20.08.2014, on the grounds that the claim should be filed under para 2, since the difference between the amount of rebate under para 2 and para 3 was less than 20%. It is thereafter that the subject claim came to be filed before the Customs authorities. In the present case, the factum of export of goods and the use of eligible services is not disputed by the department. In GOI Order No. 22/2018-ST dated 05.03.2018 in the case of M/s R.N. Bajaj Overseas, the Government has held that the rebate of service tax paid cannot be denied under both the paras of notification when the goods were undeniably exported. It is also observed that non-filing of declaration appears to have been due to technical difficulties on the system.

6. In view of the above, the revision application is allowed with consequential relief.



(Sandeep Prakash)

Additional Secretary to the Government of India

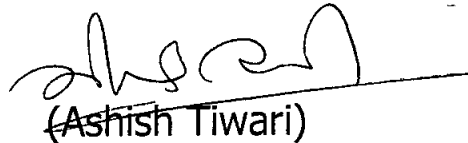
M/s Greenlam (formerly Greenply) Industries Ltd.,
E-176-179 & SP-182, (New SP-02),
RIICO Industrial Area,
Behror, Alwar, Rajasthan – 301 701.

G.O.I. Order No. 35/21-ST dated 27/12-2021

Copy to:-

1. The Commissioner of Customs (Export), Inland Container Depot, Tughlakabad, New Delhi – 110 020.
2. The Commissioner of Customs (Appeals), New Delhi, New Customs House, Near IGI Airport, New Delhi – 110037.
3. Sh. Arun Goyal, Advocate, 11, Jai Ambey Colony, Madrampura, Civil Lines, Jaipur- 302 006.
4. PA to AS(Revision Application).
5. Spare Copy.
6. Guard File.

ATTESTED



(Ashish Tiwari)
Assistant Commissioner (RA)