



F. No. 195/110-A/2015-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.....27/10/22

Order No. 65/2022-CX dated 27-10-2022 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 Application filed under section 35 EE of the Central Excise Act, 1944 against the Order-in-Appeal No. BGM/EXCUS//000/DWD/AC/APP/HAB/006/2015 dated 20.01.2015, passed by the Commissioner of Central Excise (Appeals), Mysuru.

Applicant : M/s Indian Sugar Manufacturing Co. Ltd., Bijapur.

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

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**ORDER**

A Revision Application No. 195/110-A/2015-R.A. dated 27.04.2015 has been filed by M/s Indian Sugar Manufacturing Co. Ltd., Bijapur (hereinafter referred to as the Applicant) against the Order-in-Appeal No. BGM/EXCUS//000/DWD/AC/APP/HAB/006/2015 dated 20.01.2015, passed by the Commissioner of Central Excise (Appeals), Mysuru. The Commissioner (Appeals) has, vide the impugned Order-in-Appeal, upheld the Order-in-Original No. BEL-EXCUS-000-DHAR-ASC-SVB-018-13-14 (R) dated 14.03.2014, passed by the Assistant Commissioner of Central Excise, Dharwad Division.

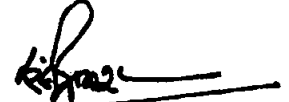
2. Briefly stated, the Applicants are a composite unit engaged in the manufacture of sugar. Molasses is a bye product under Heading No. 17, arising inevitably during the manufacture of sugar. On the night of 16.03.2013, an incident took place and the duty paid molasses weighing 3504 MTs stored in Steel Tank No. 'A' was burnt in spontaneous combustion due to high temperature inside the tank and the molasses completely became unfit for further use. The Applicants filed a refund claim dated NIL, under Section 11B of the Central Excise Act, 1944, for a sum of Rs. 27,06,840/- towards the duty paid on the input molasses of 3504 MT which was destroyed in the incident. The original authority, pursuant to a Show Cause Notice dated 12.02.2014, rejected the refund claim. The appeal filed by the Applicant herein has been rejected by the Commissioner (Appeals).

3. The Revision Application has been filed, mainly, on the grounds that the excise duty is not payable on the molasses destroyed under unavoidable incident as remission of the same is available under Rule 21 of the Central Excise Rules, 2002; that the excise duty on molasses destroyed in the factory is not payable since captive consumption of intermediate goods is exempted under Notification No. 67/95-CE dated 16.03.1995; that there was no removal of molasses from the factory and, therefore, the duty on molasses was not payable; that the refund of duty incorrectly paid has to be granted; and that the amount incorrectly paid by the Applicant cannot be held up by the department without any authority of law. A written reply, vide Letter C. No. IV/03/03/2014-15 dated 27.10.2015, has been filed by the Respondent department.

4. Personal hearing in the matter were fixed on 07.09.2021, 14.09.2021, 08.12.2021, 14.12.2021, 07.10.2022 and 27.10.2022. No one appeared for the Applicant on any of dates fixed for personal hearing. However, in response to the personal hearing notice for the hearing fixed on 27.10.2022, the Applicants have, vide letter dated 27.10.2022, requested for withdrawal of the revision application as it has been rendered infructuous in view of the CESTAT's Final Order No. 21266/2017 dated 31.07.2017.

5. The Government has carefully examined the matter. Issue involved herein the refund of duty paid on the intermediate products i.e., molasses which was purportedly destroyed in an accident in the factory premises of the Applicant. It is observed that the Order-in-Appeal impugned herein was also a subject matter of an appeal filed before the CESTAT by the Applicants, which appeal has been rejected by the CESTAT. The Applicants have in this light stated that the revision application is infructuous and should be allowed to be withdrawn. In the light of CESTAT's Order which appears to have been accepted by the Applicants herein, no doubt, the present revision application has been rendered infructuous. However, it is apparent that the Applicants herein were simultaneously availing two remedies against the same Order-in-Appeal, without bringing this fact on records. Further, even though the CESTAT disposed of the appeal on 31.07.2017, the Applicants did not bother to, even at that stage, withdraw the revision application. The Government is constrained to observe that such conduct of the Applicants is not only unfortunate but deprecable.

6. The revision application is dismissed as withdrawn, with observation as above.



(Sandeep Prakash)

Additional Secretary to the Government of India

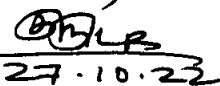
M/s India Sugar Manufacturing Co. Ltd.  
Havinal, Taluk: Indi, Dist: Bijapur,  
Karnataka-586205.

G.O.I. Order No. 65/22-CX dated 27-10-2022

Copy to:

1. The Commissioner of CGST & Central Excise, C.R. Building, No. 71, Club Road, Belagavi-590001.
2. The Commissioner of Central Excise (Appeals), S1 & S2, Vinaya Marga, Siddartha Nagar, Mysuru-570011.
3. Sh. Laxmikumaran & Sridharan, Attorneys, 5, Jungpura Extension Link Road, New Delhi-110014.
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, भारत, India  
नई दिल्ली / New Delhi