

SPEED POST



F.No. 195/75/2017-RA
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... 03/11/22

Order No. 75/2022-CX dated 03-11-2022 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. 229/2017-AU I dated 16.06.2017, passed by the Commissioner of Central Excise & Service Tax (Appeals-I), Bengaluru.

Applicant : M/s Jalaram Industries, Bengaluru.

Respondent : Commissioner of CGST & Central Excise, Bengaluru North.

ORDER

A Revision Application No. 195/75/2017-RA dated 18.09.2017 has been filed by M/s Jalaram Industries, Bengaluru North, (hereinafter referred to as the Applicant), against the Order-in-Appeal No. 229/2017-AU I dated 16.06.2017, passed by the Commissioner of Central Excise & Service Tax (Appeals-I), Bengaluru. The Commissioner (Appeals) has, vide the impugned Order-in-Appeal, upheld the Order-in-Original No. 184/2013-R dated 11.11.2013, passed by the Assistant Commissioner of Central Excise, Yashwanthpur Division, Bengaluru.

2. Brief facts of the case are that a merchant exporter, namely, M/s. Triveni Impex Private. Ltd., 58/5 Kaatra Ishwar Bhawan, Khari Baoli, Delhi (TIPL), had lodged rebate claims with the jurisdictional AC/DC of Central Excise Delhi-II Commissionerate. The Original Authority had rejected the rebate claims on the grounds of not following the correct valuation in respect of the exported goods, which rejection was upheld by the Commissioner of Central Excise (Appeals), Delhi. However, the Revision Applications filed by the merchant exporter, i.e., TIPL were allowed by the Government, vide Order No. 219/11-CX dated 09.03.2011 and Order No. 236-237/11-CX dated 16.03.2011. Rebate claims were allowed to be paid in cash to the extent of acceptable value and the balance paid amount was ordered to be re credited in the same manner as it was paid at the time of clearance of exported goods. The rebate claims were sanctioned to TIPL in compliance of GOI's orders dated 09.03.2011 and 16.03.2011. The Applicant herein, who claims to have supplied the exported goods to the merchant exporter (TIPL), filed the subject rebate claims for Rs. 47,51,122/-, on the grounds of being consequential to the GOI's aforesaid Orders stated 09.03.2011 and 16.03.2011. The original authority, however, rejected the claims vide Order-in-Original dated 11.11.2013, which has been upheld in appeal by the Commissioner (Appeals).

3. The Revision Application has been filed, mainly, on the grounds that the Revisionary Authority had, vide Orders dated 09.03.2011 and 16.03.2011, allowed part of the rebate claim to be re credited in the same manner as it was paid at the time of clearance of impugned exported goods; that the duty was originally paid by

them as manufacturers from the PLA Account while clearing it to the merchant exporter and therefore, the rebate claim is admissible as cash; and that the lower authorities have failed to appreciate the order passed by the Revisionary Authority in the case of TIPL.

4. Personal hearing, in virtual mode, was held on 02.11.2022. Sh. B. Kumar, Consultant appeared for the Applicant and reiterated the contents of the RA. No one appeared for the Respondent department nor any request for adjournment has been received. Therefore, it is presumed that the Department has nothing to add in the matter.

5. The Government has carefully examined the case. The claim for rebate, involved in the instant Revision Application, is said to have arisen as a consequence of the GOI's Orders No. 219/11-CX dated 09.03.2011 and No. 236-237/11-CX dated 16.03.2011, in the case of M/s Triveni Impex Private. Ltd. As already brought here in above, the rebate claims covered by the aforesaid Orders dated 09.03.2011 and 16.03.2011, had been originally rejected on the grounds of valuation of the exported goods. However, the Government subsequently allowed the rebate claim, in cash, to the extent of duty corresponding to the correct value of the exported goods and excess amount was allowed to be re credited in the same manner, as it was paid. It is not in dispute that these orders of the Government have been complied qua the Applicant therein i.e., M/s. Triveni Impex Private. Ltd. The contention of the Applicant herein is that since being manufacturers the excess duty on the goods ultimately exported by M/s. TIPL was originally paid by them, the excess amount should be refunded to them, in terms of the Government's orders dated 09.03.2011 and 16.03.2011. The Government observes that the rebate claims were filed by the merchant exporter, who had actually exported the goods on payment of duty from their accounts. It appears from the Revision Application that the merchant exporter has reversed the benefit to the Applicant herein only to the extent of claim received by them in cash but have not compensated them in respect of the amount allowed by way of re credit in the CENVAT credit account. It is, thus, obvious that the dispute herein is between the manufacturer and the merchant exporter about the sharing of benefits arising out of the rebate claims allowed to the merchant

exporter. In other words, the lis is between the two private parties and the department has been unnecessarily dragged into the matter. Therefore, the Revision Application is totally misconceived and bereft of any merit.

6. The Revision Application is, accordingly, rejected.



(Sandeep Prakash)

Additional Secretary to the Government of India

M/s Jalaram Industries,
Survey. No. 120/4, Alur Post & Village,
Dasanapura Hubli,
Bengaluru North-562123,

G.O.I. Order No. 75/22-CX dated 03-11-2022

Copy to: -

1. The Commissioner of CGST & Central Excise, Bengaluru North, No. 59, HMT Bhavan, Bellary Road, Bengaluru-560032.
2. The Commissioner of Central Excise (Appeals-I), Traffic Transit Management Centre, BMTC Building, 4th Floor, Above BMTC Bus Stand, Domlur, Old Airport Road, Bangalore-560071.
3. M/s L K. Associates, "Time Tower" Room No. 5, 2nd Floor, 169/84, Gengu Reddy Road, (Opp. to PT School), Egmore, Chennai- 600 008.
4. PS to-AS (RA)
5. Guard File.
6. Spare Copy.

ATTESTED



अश्वनी कुमार लौ / Aswani Kumar Lau
अधीक्षक / Superintendent (R.A. Unit)
वित्त मंत्रालय / Ministry of Finance
राजस्व विभाग / Department of Revenue
Room No. 606, 6th Floor, B-Wing
14, Hudco Vishwa Building, Bhikaji Cama Place
New Delhi-110066