

SPEED POST

F. No. 195/299/SZ/17-RA & Others  
 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. 21/12/22

Order No. 92-108 /2022-CX dated 20-12-2022 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(s), as mentioned in Column 'B' of the 'Table-I' below, filed under Section 35EE of the Central Excise Act, 1944 against the Order-in-Appeal No(s) as mentioned in Column 'D' of the 'Table-I' below, passed by the Commissioner (Appeals) as mentioned in Column 'E' of the Table, ibid.

Applicant(s) : As mentioned in Column 'C' of Table-I, below.

Respondent(s) : As mentioned in Column 'G' of Table-I, below.

**Table-I**

S. No.	R. A. No(s)/ Date of filing	Name of the Applicant	OIA No./ Date	Appellate Authority/ Commissioner (Appeals)	Rebate Amount under Dispute	Name of the Respondent
A	B	C	D	E	F	G
1.	195/299/SZ/17-RA Dated 14.09.2017	M/s P. K. Laxmi Mill India Pvt. Ltd., Dindigul, Tamilnadu	168 & 169/2017 Dated 12.06.2017	Commissioner, Central Excise (Appeal-I), Coimbatore at Madurai	Rs. 4,35,458/-	The Commissioner of CGST, Madurai
2.	195/300/SZ/17-RA Dated 14.09.2017	M/s Empree Medicaments India (P) Ltd., Belagavi, Karnataka	BEL/EXCUS/000/APP/MSC- 188/2018-19 Dated 22.06.2018	Commissioner of Central Tax (Appeals), Belagavi	Rs. 2,78,925/-	The Commissioner of CGST, Belagavi

4-7	195/41-44/SZ/2018-RA Dated 03.04.2018	M/s Emerson Process Management Chennai Pvt. Ltd., Chennai	57-60/2010(MST) Dated 21.09.2010	Commissioner of Central Excise (Appeals), Chennai	Rs. 68,12,075/-  Rs. 57,80,937/-  Rs. 4,72,494/-  Rs. 3,35,504/-	The Commissioner of CGST (South), Chennai
8-10	195/8-10/SZ/2019-RA Dated 23.01.2019	M/s Steer Engineering Pvt. Ltd., Bengaluru	453 to 455/2018-CT Dated 01.11.2018	Commissioner of Central Tax (Appeals-II), Bengaluru	Rs. 30,17,883/-  Rs. 65,77,303/-  Rs. 34,03,149/-	The Commissioner of CGST (North-West), Bengaluru
11.	195/228/SZ/2019-RA Dated 10.6.2019	M/s Natur Tec India Pvt. Ltd., Chromepet, Chennai	08/2019(CTA-II) Dated 31.01.2019	Commissioner of Central Tax (Appeals-II): CGST & Central Excise, Chennai	Rs. 4,12,586/-	The Commissioner of CGST (Outer), Chennai
12.	195/241/SZ/2019-RA Dated 08.07.2019	M/s Industrias Del Recambio India Pvt. Ltd., Sriperumbudur Taluk, Tamilnadu	56 & 57/2018(CTA-II) Dated 29.03.2019	Commissioner of Central Tax (Appeals-II): CGST & Central Excise, Chennai	Rs. 84,29,230/-  Rs. 85,66,439/-	The Commissioner of CGST (Outer), Chennai
14.	195/243/SZ/2019-RA Dated 09.07.2019		44/2019(CTA-II) Dated 29.03.2019		Rs. 97,23,730/-	
15.	195/244/SZ/2019-RA Dated 09.07.2019	M/s Michelin India Pvt. Ltd., Ghummidipoondi, Tamilnadu	46/2019(CTA-II) Dated 29.03.2019	Commissioner of Central Tax (Appeals-II), Chennai	Rs. 18,62,986/-	The Principal Commissioner of CGST, Chennai (North)
16.	195/283/SZ/2019-RA Dated 17.12.2019		264/2019(CTA-II) Dated 21.09.2019		Rs. 38,92,281/-	
17.	195/265/SZ/17-RA Dated 20.07.2017	M/s Ford India Pvt. Ltd., Kanchipuram, Tamilnadu	53/2017 Dated 21.04.2017	Commissioner (Appeals-I), Central Excise & Service Tax, LTU, Chennai	Rs. 44,39,171/-	The Principal Commissioner of CGST, Chennai (North)

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## ORDER

Revision Applications bearing No(s)., as mentioned in Column '**B**' of the '**Table-I**' above, have been filed under Section 35EE of the Central Excise Act, 1944 against the Orders-in-Appeal No(s), as mentioned in Column '**D**' of the '**Table-I**' above, passed by the Commissioner (Appeals), as mentioned in Column '**E**' of the **Table**, *ibid*. The jurisdictional Commissioners (Appeals) have, *vide* the respective Orders-in-Appeal, upheld the Orders-in-Original passed by the jurisdictional Deputy Commissioner/ Assistant Commissioner of Central Excise whereby rebate claims of the enlisted Applicants, as per Column '**C**' of the '**Table-I**' above, were rejected on the grounds of limitation prescribed under Section 11B of the Central Excise Act, 1944.

2. Brief facts of the case are that the Applicants herein had exported excisable goods on payment of Central Excise duty and filed their respective rebate claims, under Rule 18 of the Central Excise Rules, 2002, beyond the period of one year prescribed under Section 11B of the Central Excise Act, 1944. The jurisdictional original authorities rejected the rebate claims as barred by limitation prescribed under Section 11B of the Act, *ibid*. Aggrieved, the Applicants herein filed their respective appeals, which have been rejected.

3. The Revision Applications have been filed, mainly, on the grounds that the period prescribed under Section 11B of the Central Excise Act, 1944 is not applicable; that exports were made prior to 01.03.2016; that neither Rule 18 of the Central Excise Rules, 2002 nor Notification No. 19/2004-CE(NT) dated 06.09.2004 specifically provided for the applicability of limitation under Section 11B of the Act, *ibid* for the period between 2004 to 2016; that notification dated 06.09.2004 had been amended *vide* notification dated 01.03.2016 and, thus, the period prescribed under Section 11B of the Act, *ibid* is not applicable in respect of exports made prior to 01.03.2016; that there is a vast difference and distinction between the refund of duty and the rebate claim and, thus, rebate claim cannot be governed by Section 11B of the Act, *ibid*.

4. As the revision applications involve identical issue, they are being disposed of by this common order.



4.1 In the personal hearings held separately for each of the Applicants, on 15.12.2022, in virtual mode, Appointed/ Nominated Advocate(s)/ Authorised Representative(s) appeared for the Applicants herein. Written additional submissions/documents as well as their oral submissions, in support of their claim, have been taken on record.

4.2.1 In the case of M/s P. K. Laxmi Mill India Pvt. Ltd., Dindigul, Tamilnadu, Sh. Matheswaran N. Advocate appeared for the Applicants and reiterated the contents of the RA. At his request, he was allowed to email additional submissions, if any, by the end of the day making it clear that no further time shall be granted. Sh. Raghunath Gali, AC appeared for the department and submitted that the limitation under Section 11B shall be applicable irrespective of whether notification 19/2004-CE(NT) specifically incorporated it or not. The Applicants have not filed any additional submissions after the hearing.

4.2.2 In the case of M/s Emprree Medicaments India (P) Ltd., Belagavi, Karnataka, Sh. Chidnanda Urs, Advocate appeared for the Applicant and stated that in view of Apex Court's judgment dated 29.11.2022 in the case of M/s Sansera Engineering, the period of limitation provided under Section 11B shall be applicable to the claim of rebate. However, as the export has been made and duty has been paid, the rebate should still be allowed. Even if rebate cannot be allowed in cash, it may be allowed by way of re-credit in CENVAT credit account.

4.2.3 In the case of M/s Emerson Process Management Chennai Pvt. Ltd., Chennai, Sh. Adithya Srinivasan, CA appeared for the Applicants and reiterated the contents of the RA. At his request, he was allowed to make Written Submissions, if any, by the end of the day by email making it clear that no further time shall be granted. The Applicants have, however, not filed any additional submissions, after the hearing.

4.2.4 In the case of M/s Steer Engineering Pvt. Ltd., Bengaluru, Sh. Anand Nagaraj, Advocate appeared for the Applicants and requested that additional submissions dated 14.12.2022 may be taken on record. He stated that even though in view of Hon'ble Supreme Court's judgment dated 29.11.2022 in the case of Sansera Engineering, their original plea



is not admissible, the rebate can still be granted in view of the alternate pleas raised in the additional submissions dated 14.12.2022.

4.2.5 In the case of M/s Natur Tec India Pvt. Ltd., Chromepet, Chennai, Sh. S. Viswanath, Advocate made submissions for the Applicant and requested that additional submissions made by email dated 15.12.2022 may be taken on record. He reiterated the contents of the RA and the additional submissions dated 15.12.2022. He also submitted that delay in filing of the claim was for the reasons totally beyond the control of the Applicant, who met with a major accident at the relevant period of time.

4.2.6 In the case of M/s Industrias Del Recambio India Pvt. Ltd., Sriperumbudur Taluk, Tamilnadu, Sh. S. Viswanath, Advocate appeared for the Applicant and requested that additional submissions dated 15.12.2022 may be taken on record. He reiterated the contents of the RA and the additional submissions. Sh. Viswanath highlighted that delay occurred due to reasons beyond the control of the Applicant as the management was changing over at the relevant time. Sh. Paritosh Vyas, AC appeared for the department and supported the Order of the Commissioner (Appeal). He highlighted that there was a delay of one year in filing of the claim.

4.2.7 In the case of M/s Michelin India Pvt. Ltd., Ghummidipoondi, Tamilnadu, Ms. R. Charulatha, Advocate made the submissions on behalf of the Applicant and requested that Synopsis and Compendium filed on 15.12.2022 may be taken on record. She reiterated the contents of the RA and the Synopsis filed. Upon being pointed out about the submission made in the Synopsis that the endorsement on ARE-1s was delayed by the departmental officers, she submitted that date of submission to the Customs Officer for endorsement is not readily available with her. At her request, time upto 11AM on 16.12.2022 was allowed to submit those dates along with proof making it clear that no further time shall be granted. Additional submissions dated 16.12.2022 have been received after the hearing.

4.2.8 In the case of M/s Ford India Pvt. Ltd., Kanchipuram, Tamilnadu, Sh. J V Niranjan, Advocate appeared for the Applicant and reiterated the contents of the RA.



4.3 In all cases, except those mentioned in paras 4.2.1 & 4.2.6, no one appeared for the Respondent department nor any request for adjournment has been received. Hence, it is presumed that the department has nothing to add in the matter.

5. The RA Nos. 195/41-44/ST/2018-RA dated 03.04.2018 have been filed with a delay. It has been submitted that the delay occurred as the Applicants had originally approached the CESTAT in the matter. However, the appeals filed by them have been dismissed as non—maintainable by the CESTAT, Chennai, vide Final Order No. 40020-40023/2018 dated 04.01.2018. Delay caused due to pursuing remedy in wrong forum is condoned.

6.1 The Government has carefully examined the matter. The common question involved in the subject revision applications is whether the limitation provided under Section 11B of the Central Excise Act, 1944 is applicable to the claims for rebate of duty, under Rule 18 of the Central Excise Rules, 2002 read with the Notification No. 19/2004-CE(NT) dated 06.09.2004.

6.2 It is observed that as per clause (A) of the Explanation to Section 11B, "refund" includes rebate of duty of excise on excisable goods exported out of India or on excisable material used in the manufacture of goods which are exported out of India. Further, as per clause (B) of the said Explanation "relevant date" means-

*"(a) In the case of goods exported out of India where a refund of excise duty paid is available in respect of the goods themselves or, as the case may be, the excisable materials used in the manufacture of such goods-*

- (i) If the goods were exported by sea or air, the date on which the ship or the aircraft in which such goods are loaded, leaves India, or*
- (ii) If the goods are by land, the date on which such goods pass the frontier, or*
- (iii) If the goods are exported by post, the date of dispatch of goods by the Post Office concerned to a place outside India.,"*

Thus, Section 11B not only provides that the rebate of duty of excise is a type of refund of duty, the relevant date for determining limitation in the cases of rebate is also specifically



provided. As such, on a plain reading of Section 11B, there should be no scope for doubt that the limitation provided under Section 11B is applicable to the cases of rebate as well.

6.3 The Government further observes the issue is no longer res-integra. The Hon'ble Supreme Court has, in the case of Sansera Engineering Ltd. vs. Deputy Commissioner, Large Tax Payer Unit, Bengaluru (Civil Appeal No. 8717 of 2022), noted the statutory position, as above, and, vide its judgment dated 29.11.2022, held that "15-----*While making claim for rebate of duty under rule 18 of the Central Excise Rules, 2002, the period of limitation prescribed under Section 11B of the Central Excise Act, 1944 shall have to be applied and applicable.*" While deciding this matter the Hon'ble Supreme Court has also overruled the contrary judgments of the Hon'ble High Courts in the cases of M/s. Dorcas Market Makers Pvt. Ltd. {2015 (321) ELT 45 (Mad.)}, Camphor and Allied Products Ltd. {2019 (360) ELT 865 (All.)}, JSL Lifestyle Ltd. {2015 (326) ELT 265 (P & H)} and Gravita India Ltd. {2016 (334) ELT 321 (Raj.)}.

6.4 Thus, there is no doubt that limitation provided under Section 11B of the Central Excise Act, 1944 shall be applicable in respect of claims for rebate, under Rule 18 ibid read with Notification No. 19/2004-CE(NT) dated 06.09.2004 irrespective of whether the provisions regarding limitation were specifically adopted in the notification dated 06.09.2004 or otherwise.

7.1 In the case of M/s Empee Medicaments India (P) Ltd., Belagavi, it is the contention of the Applicant that irrespective of the Apex Court's judgment dated 29.11.2022 in the case of Sansera Engineering, the rebate should still be allowed. Suffice it to say that this contention has no legal basis and, therefore, cannot be accepted. In the alternate, it has been requested that even if the rebate cannot be allowed in cash it may be allowed by way of re-credit in the CENVAT credit account. The Government observes that even this alternate plea cannot be accepted in as much as the re-credit of the amount claimed by way of rebate in the CENVAT credit account would amount to rejecting the rebate claim in cash but at the same time allowing the same by way of re-credit. It is trite that what cannot be done directly can also not be done indirectly. In any case, after the introduction of the GST w.e.f.,



01.07.2017, there is no CENVAT credit account available with the Applicant where the re-credit could be considered. Therefore, this plea is rejected.

7.2.1 In the case of M/s. Steer Engineering Pvt. Ltd., Bengaluru, the Applicants have, in their additional submissions, contended that the ARE-1s should itself be treated as a claim for rebate. In the alternate, it is submitted that the Shipping Bills filed electronically in terms of Shipping Bill (Electronic Declaration) Regulations, 2011 itself should be construed as claim for rebate of duty paid on export of goods.

7.2.2 The Government observes that the issue of treating ARE-1 itself as the claim for rebate has been considered by the Hon'ble Bombay High Court in the case of Everest Flavours Ltd. vs. Union of India {2012 (282) ELT 481 (Bom.)} wherein after detailed examination of the matter the Hon'ble Court has held as under:

*"10. In exercise of the powers conferred by Rule 18, the Central Government has issued a Notification. The Notification prescribes the conditions and limitations upon which a claim for rebate can be granted. Among the conditions and limitations under Clause (2) of the Notification is the requirement that the excisable goods shall be exported within six months from the date on which they were cleared from the factory of manufacture or warehouse. The procedures are stipulated in Clause (3). Sub-clause (iv) provides for the sealing of goods intended for export, at the place of dispatch and the exporter shall present goods along with four copies of an application in Form ARE-1 specified in the Annexure to the Notification to the Superintendent or Inspector of Central Excise having jurisdiction over the factory of production or manufacture or warehouse. Sub-clause (v) then stipulates that the Superintendent or Inspector shall verify the identity of goods mentioned in the application, the particulars of the duty paid or payable and if found in order, shall seal each package or the container and endorse each copy of the application in token of having carried out the examination. The original and duplicate copies of the application are returned to the exporter. The triplicate copy of the application is to be sent to the Officer with whom a rebate claim is to be filed either by post or by handing over to the exporter in a sealed cover after posting the particulars in the official record or to be sent to the Excise Rebate Audit*



Section at the place of export in case rebate is to be claimed by electronic declaration. Sub-clause (b) of Clause (3) of the Notification makes a provision for presenting a claim for rebate of Central Excise duty in the following terms:

**"(b) Presentation of claim for rebate to Central Excise:-**

(i) Claim of the rebate of duty paid on all excisable goods shall be lodged along with original copy of the application to the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise having jurisdiction over the factory of manufacture or warehouse or, as the case may be, the Maritime Commissioner;

(ii) The Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise having jurisdiction over the factory of manufacture or warehouse or, as the case may be, Maritime Commissioner of Central Excise shall compare the duplicate copy of the application received from the officer of customs with the original copy received from the exporter and with the triplicate copy received from the Central Excise Officer and if satisfied that the claim is in order, he shall sanction the rebate either in whole or in part."

The provisions of the Notification thus make it abundantly clear that a mere submission of the ARE-1 form does not constitute the presentation of a claim for rebate of Central Excise. Form ARE-1 in turn has various parts including Part A which deals with the certification by Central Excise Officer, Part B which deals with certification by the Officer of Customs and Part D which is the actual Rebate Sanction Order. Moreover, it would be necessary to take note of the fact that under Section 11BB of the Act, interest is liable to be paid if any duty which is ordered to be refunded under sub-section (2) of Section 11B to any applicant is not refunded within three months from the date of receipt of application under sub-section (1) of Section 11B. For the purpose of Section 11BB, presentation of the application is the relevant date from which the period of three months has to be reckoned. If the submission of the petitioner were to be accepted, viz. that the mere presentation of the ARE-1 form would constitute an application for rebate of Central Excise Duty, that would defeat the whole scheme that has been enunciated in Section 11B and Section 11BB. Before the application for rebate

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*can be allowed, an exporter has to furnish various documents including a request on the letterhead of the exporter containing a claim for rebate, the ARE-1 numbers and dates, corresponding invoice numbers and dates, the original copy of the ARE-1, invoice issued under Rule 11, self-attested copy of shipping bill and self-attested copy of bill of lading together with a Disclaimer Certificate in case where a claimant is other than the exporter. These requirements have been spelt out in para 8.3 of the C.B.E. & C. Excise Manual. The mere presentation of an ARE-1 form does not, therefore, constitute the filing of a valid application for rebate. An application for refund has to be filed, together with documentary material as required. We, therefore, do not accept the second submission which has been urged on behalf of the petitioner”.*

It is further observed that the judgment of the Hon'ble Bombay High Court in Everest Flavours Ltd. (supra) has been extensively extracted (including para 10) and cited with approval by the Hon'ble Supreme Court in the judgment dated 29.11.2022 in the case of Sansera Engineering Ltd. (supra). Therefore, the contention that the ARE-1 itself should be treated as a rebate claim cannot be accepted.

7.2.3 Another contention of the Applicant is that the Shipping Bills, filed electronically, should be construed as claims for rebate. The Government observes that the Applicants have, in their additional submissions dated 14.12.2022, themselves admitted that the linking of rebate claims through EDI with the electronics shipping bills has not been implemented. Further, as held by the Hon'ble Bombay High Court in the case of Everest Flavours Ltd. (supra), the application for rebate has to be filed with documentary material as required in terms of Notification and CBEC's Excise Manual. Needless to say that like ARE-1, the electronic shipping bill is not the only material required for filing a claim for rebate. Therefore, following the ratio of the decision in Everest Flavours Ltd. (supra), electronic shipping bills can also be not treated as a claim for rebate under Rule 18, *ibid*.

7.3 In the case of M/s. Natur Tec India Pvt. Ltd and M/s. Industrias Del Recambio India Pvt. Ltd., submissions have been made that the delay occurred due to the reasons beyond the control of the Applicants. The Government observes that there is no provision in Section

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11B to condone the delay in filing of the refund/ rebate claims. Therefore, contentions based on delay due to reasons beyond the control of the Applicants cannot be considered.

7.4.1 In respect of the revision applications filed by M/s. Michelin India Pvt. Ltd., in the synopsis filed on 15.12.2022, following additional submissions have been made:

- (i) In respect of OIA Nos. 44/2019 dated 29.03.2019 and 264/2019 dated 21.09.2019, the rebate claims could not be filed within the period of one year as the duly endorsed ARE-1s were received belatedly from the Customs officers. Therefore, the one-year limitation period should be counted from the date on which the Customs officers duly endorsed the ARE-1s.
- (ii) In the case of OIA No. 46/2019, the impugned Order-in-Appeal had erroneously concluded that Section 9 of the General Clauses Act, 1897 is not applicable to time limit prescribed under Section 11B of the Excise Act, which if applied would lead to exclusion of the date of Let Export Order from the limitation period and their rebate claims would, therefore, be within the period of limitation provided under Section 11B.

7.4.2 The Government observes that the 'relevant date' for calculating the period of limitation has been provided in sub-clause (a) of the Explanation clause (B) to Section 11B *ibid*, which has been extracted in para 6.2 above. In terms thereof the 'relevant date' in respect of goods exported by sea or air is the date on which the ship or the aircraft in which such goods are loaded leaves India. The Applicants have to the contrary contended that since a duly endorsed ARE-1 has to be filed along with the rebate claim, the date on which ARE-1 was endorsed by the Customs Officers should be treated as the 'relevant date'. It is to be observed that the requirement to file duly endorsed copy of ARE-1 along with the claim is a procedural requirement specified in Notification No. 19/2004-CE(NT). Therefore, if this contention of the Applicants were to be accepted it would amount to varying the provisions of the parent statute i.e., Section 11B due to the provisions made in the subordinate legislation. The Hon'ble Supreme Court has, in the case of *Union of India vs. Uttam Steels Ltd.* {2015 (319) ELT 598 (SC)}, held that it is not open to subordinate legislation to dispense with the requirements of Section 11B. The decision in *Uttam Steels Ltd.* (*supra*)

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has been followed by the Hon'ble Supreme Court in the case of Sansera Engineering Ltd. (supra). Therefore, the contention of the Applicants that in view of the requirement of Notification No. 19/2004-CE(NT) to file a rebate claim along with duly endorsed copy of the ARE-1, the 'relevant date' should be read as the date of endorsement of the ARE-1 by the Customs officers cannot be countenanced. For appropriate examination of this issue, it would be also relevant to notice that the Shipping Bills at the Customs end are filed, processed and cleared electronically whereas ARE-1 is a manual document. In this background, during the personal hearing, the Applicant was required to substantiate their claim that the delay in endorsement was at the end of the Customs officers. In the Additional Submissions dated 16.12.2022, no substantiation is forthcoming though some submissions have been made on the basis of procedure prescribed. The Government observes that the ARE-1 is not a document required for granting Let Export Order (LEO) by the Customs officer. Therefore, in practice, the ARE-1 is on many occasions submitted by the exporter or Customs Broker to the Customs officers for endorsement much after the LEO/ export. In this light, it was necessary for the Applicants to establish the factual position before ascribing the delay to the Customs officers, which they have failed to do despite being required to do so. Thus, the claim that the delay was at the end of the Customs officers itself is unsubstantiated. In this light, the reliance placed by the Applicants on the decisions of the Hon'ble Rajasthan High Court in the cases of Gravita India Ltd. (supra) and Banswara Syntex Ltd. {2017 (349) ELT 90 (Raj.)} etc., is of no assistance to their case. In any case, the judgment of Hon'ble Rajasthan High Court in the case of Gravita India Ltd. has been overruled by the Hon'ble Supreme Court in the case of Sansera Engineering Ltd. (supra). Further, the judgment in Banswara Syntex Ltd. (supra) has been passed by the Hon'ble High Court by following the earlier judgment in Gravita India Ltd., which as already stated, has been overruled. Therefore, the present contention of the Applicants cannot be accepted.

7.4.3 Another contention raised is with reference to the applicability of Section 9 of the General Clauses Act, 1897 for computing the period of limitation provided under Section 11B *ibid.* Sub-section (1) of Section 9 of the General Clauses Act provides that when word 'from' is used in any Central Act or Regulation, first day in the series of days or any other period of time is to be excluded. But when the word 'to' is used, last day in the series of days or any other period of time is to be included. It is the contention of the Applicants that

in view of the aforesaid provision of the General Clauses Act, the first day in the series of days i.e., date of Let Export Order should be excluded while counting the limitation period provided under Section 11B. The Government observes that Section 11B requires a claim to be filed "before the expiry of one year from the relevant date". The Section 11B, therefore, uses the word 'from' and, as such, in view of the Section 9 of the General Clauses Act, the first day in the series of days has to be excluded while computing the period of limitation. The applicability of the said Section 9 to the provisions of Section 11B of the Central Excise Act, 1944 cannot be doubted, as in terms of sub-section (2) of the said Section 9 the provisions thereof apply to all Central Acts made on or after the fourteenth day of January, 1887. The Applicants have also correctly pointed out that the Hon'ble Bombay High Court has, relying upon judgments of various other Hon'ble High Courts, in the case of Skoda Auto Volkswagen India Pvt. Ltd. vs. Commissioner (Appeals) {2021(50) GSTL 67 (Bom.)}, applied the provisions of said Section 9, while computing limitation prescribed under sub-section (3A) of Section 85 of the Finance Act, 1944 relating to Service Tax. Therefore, this contention of the Applicants is acceptable if borne out from records.

8. In view of the above, all the Revisions Applications, as tabulated in Table-I above, except the Revision Application No. 195/244/SZ/2019, filed by M/s Michelin India Pvt. Ltd., are rejected. In the case of RA No. 195/244/SZ/2019 (S. No. 15 above), the matter is hereby remanded to the original authority with directions to compute the limitation period of one year (as provided under Section 11B, *ibid*), by keeping in view the provisions of Section 9 of the General Clause Act, 1897, as amended, and decide the matter by way of a speaking order after following the principles of natural justice. While remanding the matter, it is made clear that the remand is limited to computing the limitation period, as directed above, and no other issue is kept open for decision.



(Sandeep Prakash)  
Additional Secretary to the Government of India

o/c 20.12.2022

**Applicant(s):**

1.	M/s P. K. Laxmi Mill India Pvt. Ltd., Dindigul-I Division, Minukkampatti, PO-Vedasandur TK., Dindigil-627411, Tamilnadu
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2.	M/s Empee Medicaments India (P) Ltd., 99, C&D, KIADB Industrial Estate, Honga, Belagavi-591113, Karnataka
3.	M/s Emerson Process Management Chennai Pvt. Ltd., (Formerly Known as M/s Fisher Sanmar Ltd.), No. 147, Rajiv Gandhi Salai, Karapakkam Village, Chennai-600097
4.	M/s Steer Engineering Pvt. Ltd., 290, 4 <sup>th</sup> Main, 4 <sup>th</sup> Phase, Peenya Industrial Area, Bengaluru-560058
5.	M/s Natur Tec India Pvt. Ltd., 187/1A, Anna Salai, Chromepet, Chennai-600044
6.	M/s Industrias Del Recambio India Pvt. Ltd., No. A-7, SIPCOT Industrial Growth Centre, Oragadam, Mathur Post, Sriperumbudur Taluk-602105, Tamilnadu
7.	M/s Michelin India Pvt. Ltd., A-1, SPCOT Industrial Park, Thervoy, Kandigal Village, Ghummidipoondi-601202, Tamilnadu
8.	M/s Ford India Pvt. Ltd., S.P. Koli Post, Kanchipuram District, Tamilnadu

**G.O.I. Order No. 92-108/22-CX dated 20-12-2022**

**Copy to:**

**1. Zonal Principal Chief Commissioner/ Chief Commissioner for information:**

1.	The Principal Chief Commissioner of CGST, Chennai Zone, 26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034
2.	The Principal Chief Commissioner of CGST, Bengaluru Zone, C. R. Building, Queen's Road, Bengaluru-560001

**2. The Respondents:**

1.	The Commissioner of CGST, Madurai, C. R. Building, B. B. Kulam, <b>Madurai-625002</b>
2.	The Commissioner of CGST, Belagavi, No. 71, Club Road, <b>Belagavi-590001</b>
3.	The Commissioner of CGST ( <b>South</b> ), <b>Chennai</b> , 692, M.H.U. Complex, Anna Salai Nandanam, Chennai-600035
4.	The Commissioner of CGST (North-West), 2 <sup>nd</sup> Floor, BMTC Bus Stand Complex, Shivaji Nagar, <b>Bengaluru-560051</b>
5.	The Commissioner of CGST ( <b>Outer</b> ), <b>Chennai</b> , No. 2054-III Avenue, 12 <sup>th</sup> Main Road, Newry Towers, Anna Nagar, Chennai-600034
6.	The Principal Commissioner of CGST, ( <b>North</b> ), <b>Chennai</b> , 26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034

**3. The Commissioner (Appeals):**

1.	The Commissioner of CGST ( <b>Appeals</b> ), <b>Belagavi</b> , No. 71, Club Road, Belagavi-590001
2.	The Commissioner of CGST ( <b>Appeals-I</b> ), <b>Bengaluru</b> Traffic & Transit Management Centre, BMTC Bus Stand, HAL Airport Road, Domaluru, Bengaluru-560071
3.	The Commissioner of CGST ( <b>Appeals-II</b> ), <b>Bengaluru</b> Traffic & Transit Management Centre, BMTC Bus Stand, HAL Airport Road, Domaluru, Bengaluru-560071
4.	The Commissioner of CGST ( <b>Appeals</b> ), <b>Mysuru</b> , S-1 & S-2, Vinaya Marg, Sidartha Nagar, Mysuru-570011

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5.	The Commissioner, CGST ( <b>Appeals-I</b> ), <b>Chennai</b> , 26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034
6.	The Commissioner, CGST ( <b>Appeals-II</b> ), <b>Chennai</b> , Plot No. 2054, Block-I, Newry Towers (2 <sup>nd</sup> Floor), 12 <sup>th</sup> Main Road, 2 <sup>nd</sup> Avenue, Anna Nagar, Chennai-600040
7.	The Commissioner, CGST ( <b>Appeals</b> ), <b>Coimbatore</b> , 6/7 A.T.D. Street, Race Course Road, Coimbatore-641018

**4. Advocate(s)/ Authorised Representative(s) of the Applicants:**


1.	Sh. N. Matheswaran, C/o M/s P. K. Laxmi Mill India Pvt. Ltd., Dindigul-I Division, Minukkampatti, PO-Vedasandur TK., Dindigul-627411, Tamilnadu
2.	Sh. B.G. Chidananda Urs, Advocate, #520, 7 <sup>th</sup> Mail, 13 <sup>th</sup> Cross, RMV II Stage, Dollar Colony, Bengaluru-560094.
3.	Sh. Adithya Srinivasan, CA, No. 5/32, 1 <sup>st</sup> Cross Street East, Shennoy Nagar, Chennai-600030.
4.	Sh. Anand Nagaraj, Advocate, 152, Race Course Road, Bengaluru-560001.
5.	Sh. S. Vishwanath, Advocate, No. 5, 2 <sup>nd</sup> Floor, Lakshmi Tower, 53, Arcot Road, Kodambakkam, Chennai-600024.
6.	Sh. Lakshmi Kumaran & Sridharan, Advocate, No. 2, Wallace Garden, Second Street, Chennai-600006.
7.	Sh. J V Niranjan, Advocate, Chamber No. 56, Law Chamber, Madras High Court, Chennai-600104.

5. PA to AS(RA).

~~6. Guard file.~~

7. Spare Copy.

**ATTESTED**

  
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 अधीक्षक / Superintendent (R.A. Unit)  
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