

**SPEED POST**



F. No. 198/237/SZ/2018-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. 04/07/24...

Order No. 15/2024-CX dated 04-07-2024 of the Government of India, passed by Ms. Shubhagata Kumar, Additional Secretary to the Government of India, under Section 35 EE of the Central Excise Act, 1944.

Subject : Revision Applications filed under section 35 EE of the Central Excise Act, 1944, against the Order-in-Appeal No. GUN-EXCUS-000-APP-0258-17-18 dated 28.03.2018, passed by the Commissioner of Central Tax & Customs (Appeals), Guntur.

Applicant : The Commissioner of Central Goods & Service Tax, Guntur.

Respondent : M/s Veda Poly Products Pvt. Ltd., Vijaywada.

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**ORDER**

Revision Application No. 195/237/SZ/2018-R.A. dated 17.07.2018, has been filed by The Commissioner of Central Goods & Service Tax, Guntur (hereinafter referred to as the Applicant), against the Order-in-Appeal No. GUN-EXCUS-000-APP-0258-17-18 dated 28.03.2018, passed by the Commissioner of Central Tax & Customs (Appeals), Guntur. The Commissioner (Appeals) has, vide the impugned Order-in-Appeal, allowed the input rebate of Rs.15,630/- to M/s Veda Poly Products, Vijaywada ( hereinafter referred to as "Respondent") which was rejected by the Assistant Commissioner of Customs & Central Excise, Vijaywada Division-I vide the Order-in-Original No. 137/2016-CE (R) dated 29.11.2016.

2. Brief facts of the case are that the Respondent had filed a refund claim amounting to Rs. 3,21,036/- for rebate of duty paid raw materials used in the manufacture of the finished goods and cleared for export under ARE-2s dated 09.04.2016,28.04.2016 and 23.05.2016 in terms of Notification No.21/2004-CE(NT) dated 06.09.2004.Out of the total claim of Rs. 3,21,036/- , The Lower adjudicating authority vide the Order-in-Original No. 137/2016-CE (R) dated 29.11.2016 sanctioned Rs. 3,05,406/- and rejected the claim of Rs. 15,630/- by holding that the respondent were not eligible for rebate of raw materials recovered during the manufacturing process and excess quantity of HDPE granules used in the manufacturing of exported goods. Aggrieved, the Respondent filed an appeal before the Commissioner (Appeals). Who vide the impugned OIA held that there is no reference in Rule 18 of the Central Excise Rules, 2002 and Notification No. 21/2004 dated 06.09.2004 to disallow input rebate in respect of recoverable wastage and irrecoverable wastage, and that in the OIO passed by the LAA there is no allegation that irrecoverable and recoverable wastage combined together is more than specified wastage in the standard Input Output Norm rates. Accordingly, the Commissioner (Appeals) allowed the input rebate of Rs. 15,630/- to the respondent.

3. The Revision Application has been filed by the Applicant Department mainly on the grounds that no evidence has been produced before the Appellate authority to prove that 974.300 Kgs of recoverable waste has been cleared by the respondent on payment of duty; that such recoverable waste can be reused; that if used again

in the course of manufacture of exported goods, then the occasion for claiming rebate arises for which the rebate has already been sanctioned; that there is every likelihood of evasion of raw materials by using them in excess of input-output ratio. The Respondents vide their letter dated 01.12.2023 submitted that the Lower Adjudicating Authority in para 8 of the OIO has admitted that the process wastage generated in the instant case is 4.85% and the same is well within the permissible limit of 7% as declared and approved by jurisdictional Central Excise Authority; that rebate on recoverable waste has been denied on a simple statement i.e. rebate on recoverable wastage is not eligible which is without the backing of rule or law. It was further submitted that condition 2 of notification No.21/2004 dated 06.09.2004 provides for verification and approval of the input-output ratio and the difference between the inputs and output as per the norm is allowable wastage. The condition does not contain any reference to the recoverable or irrecoverable wastage. It was finally submitted that the input used to manufacture the final product is HDPE granules and the wastage which is shown as recoverable in the ARE-2s relate to the wastage obtained during the manufacture of ropes.

4. Personal hearing in the matter was held on 01.12.2023. Sh. Kishore Rayulu, Assistant Commissioner (Vijaywada ) appeared for the Applicant and Sh. Vijay Bhaskar, Advocate appeared for the Respondent. The Applicant submitted that the two key issues in their revision application are related to re-use of recoverable waste where there is no evidence of payment of duty thereon; and use of inputs in excess of the 5% as per the SION in respect of PP ropes which is the final product in this case.

The Respondent stated that the SION norms were approved after inspection by the jurisdictional officers and have been in place for the past 20 years or more. They submitted that the distinction between recoverable and irrecoverable waste is immaterial as the final product is exempted from duty. They also submitted that the Applicant's plea of the excess HDPE used the master batch is sans merit as this was discussed threadbare at the appellate stage and has been correctly decided by the Commissioner (Appeals). The Applicant submitted that 975 Kgs of raw material used in excess of norms is a significant variation and if reused, it amounts to rebate upon rebate. They submitted that the OIA should be set aside and OIO be restored.

5. The Government has examined the matter. At the outset, the Government observes that the Applicant in the revision application has emphasised that the rebate on recoverable wastage is not eligible and rebate on any quantity used in excess of declared quantity is also not allowable. Both contentions of the Applicant Department are being taken up in the subsequent paras.

6. The Government observes that Standard input and output norms in respect of "*Articles made of HDPE/PP twine/Rope OR Articles made of blend of HDPE & PP Twine /Ropes*", provides for use of 1.08 kgs of Relevant FDPE/PP granules/chips in production of 1 kg of the final product. This implies that 8 % wastage emerging in production of such articles is acceptable as per the applicable SION. Further Note 2 to the said norm stipulates that "*In case of coloured export items, the relevant colour master Batch shall also be allowed as an additional input @0.02 Kg/kg weight of relevant polymer and accordingly the quantity of relevant polymer i.e. HDPE/PP shall be reduced to 1.06kg/kg content in the export product*". Further from the record placed before, the Government also observes that the declaration dated 15.04.2013, wherein the Respondents had declared that for production of 930 Kgs of P.P Rope, they would be using 980 Kgs of P.P. granules and 20 Kgs of Master Batch granules was accepted by the department and the same was intimated to the Respondent vide letter dated 19.04.2013. Further it is seen that there is no stipulation or provision regarding and distinction between recoverable and non- recoverable waste in the SION.

7. On the first contention of the Applicant, the Government observes that it is undisputed that the process wastage generated in the instant case is 4.85% and the same is well within the permissible limit of 7% as declared by the Respondent and approved by the Applicant department. It is the contention of the Applicant department that recoverable waste generated during the manufacturing process of the Respondent can be reused, hence, rebate cannot be allowed on the same. As per the records placed before this authority, the Respondents apprised the

Applicant department of the manufacturing process of HDPE ropes vide their letter dated 15.04.2013. The manufacturing process has been explained as:

*"(i) The HDPE granules and colouring agents are procured from various suppliers as per technical specifications. After inspection, they are mixed in the appropriate weights and poured into the hopper of the extruding machine.*

*(ii). **Extrusion process:** The granules are melted under specific temperature zones within the extruding machine and passed along a rotating screw in a barrel. The molten material comes out through a die hole of 0.8 mm dia, in the form of a continuous string called monofilament and then it is quenched and pass through hot water to get necessary strength and finish the cross section of the monofilaments which are less than 1mm dia and more than 60 denier. The filaments are wound on bobbins.*

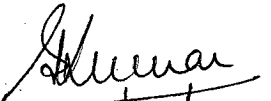
*(iii) **Mechanical twisting:** The bobbins with extruded monofilaments are loaded on different types of mechanical twisting machines such as ring twisters, stranders and rope layers depending upon the required diameters of ropes. The finished products, ropes are tested and sent to finished product stores for further despatch to customers."*

From the manufacturing process illustrated above, it is seen that HDPE granules are the basic raw material for manufacture of HDPE ropes. Thus, once HDPE granules undergo melting during the extrusion process, they are consumed in the said process and become monofilaments in the further process. Further, it has also been countered by the Respondent that the wastage which is shown as recoverable in the ARE-2s relate to the wastage obtained during the manufacture of ropes and this wastage is not in the granule form. The Government finds substance in Respondent's submission. Further, the Government is in agreement with the Commissioner (Appeals) finding that there is no reference in Rule 18 of the Central Excise Rules, 2002 and the notification No. 21/2004-CE(NT) dated 06.09.2004 to disallow or restrict input rebate in respect of recoverable wastage. The Applicants have contended that the Respondent can re-use the recoverable waste. However, they have not produced any evidence to the effect that the waste was actually re-used by the Respondent. Therefore, the said contention of the Applicant appears to be only a hypothetical premise and therefore appears untenable.

8. The second contention of the Applicant is that the Respondent has used a higher quantity of HDPE granules than the declared and permitted quantity. On this contention, the Government observes that HDPE granules and Master Batch granules (for imparting colour) are the two raw materials used in manufacture of HDPE ropes. As per the tabulation given in Para 9 of the Order in Original, the combined quantity of HDPE granules and Master Batch granules for manufacture of 28401.65 Kgs of exported HDPE ropes was 29848.10 Kgs. For manufacture of 28401.65 Kgs of exported HDPE ropes, 476.96 kgs of HDPE granules were used in excess, however, on the other hand 476.96 Kgs of Master batch granules were used less. The Government observes that this has been discussed in Commissioner (Appeals)'s order quite clearly that there is no considerable variation of input output ratio and overall wastage was below the prescribed norms. The Government concurs with Commissioner (Appeals)'s, discussion, wherein, it has been opined that overall wastage is to be taken into account for granting input rebate in terms of Rule 18 of the Central Excise Rules, 2002 read with Notification No. 21/2004-CE(NT). Further, the Government also observes that Master batch is an additional input and the wastage permitted as per SION Norms is the difference between collective input used and output obtained. From the record placed before, the Government concurs with Commissioner (Appeals) that in the matter in hand, wastage was 4.85% which is within the permitted wastage of 7% allowed as per SION.

9. In view of the above, the Government does not find any infirmity in order of the Commissioner (Appeals) and therefore it is sustainable. It is accordingly upheld.

10. The revision application is, therefore, rejected.

  
4/7/24

(Shubhagata Kumar)

Additional Secretary to the Government of India

To,

The Commissioner of Central Goods & Service Tax, Guntur,  
C.R. Building, Kannavarihota,  
Guntur-522004.

Order No. 15 /24-CX dated 04-07-2024

Copy to:

1. M/s Veda Poly Products Pvt. Ltd., #18/351, JRD Tata Industrial estate, Kanuru Donka Road, Autonagar, Vijaywada-520007. Krishna District.
2. Commissioner of Central Goods & Service Tax (Appeals), Guntur, 3<sup>rd</sup> Floor C.R. Building, Kannavarihota, Guntur-522004.
3. PPS to AS(RA)
4. Guard File.
5. Notice Board
6. Spare Copy

*Shailendra*  
ATTESTED 04/07/24  
(Shailendra Kumar Meena)  
अनुभाग अधिकारी / Section Officer  
वित्त मंत्रालय (राजस्व विभाग)  
Ministry of Finance (Deptt. of Rev.)  
भारत सरकार / Govt. of India  
नई दिल्ली / New Delhi