

**SPEED POST**



F. No. 195/127/SZ/2018-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.....24/04/23.

Order No. 75/2023-CX dated 24-04-2023 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. VIZ-EXCUS-001-APP-076-17-18 dated 31.07.2017, passed by the Commissioner (Appeals), Central Tax & Customs, Visakhapatnam.

Applicants : Dr. Reddy's Laboratories Ltd., Srikakulam.

Respondent : Pr. Commissioner of CGST & Central Excise, Visakhapatnam.

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**ORDER**

A Revision Application No. 195/127/SZ/2018-RA dated 13.07.2018 has been filed by Dr. Reddy's Laboratories Ltd., Srikakulam (hereinafter referred to as the Applicant), against Order-in-Appeal No. VIZ-EXCUS-001-APP-076-17-18 dated 31.07.2017, passed by the Commissioner (Appeals), Central Tax & Customs, Visakhapatnam. The Commissioner (Appeals) has, vide the impugned Order-in-Appeal, rejected the appeal filed by the Applicant herein against the Order-in-Original No. 412/R/2014-2015 dated 08.08.2014, passed by the Deputy Commissioner of Central Excise, Vizianagaram Division.

2. Brief facts of the case are that the Applicants herein filed a rebate claim for Rs. 1,11,73,543/-, on 15.05.2014, under Rule 18 of the Central Excise Rules, 2002 in respect of goods which were cleared for export on payment of duty against 22 ARE-1s issued during the period May 2013, to April 2014. The original authority sanctioned an amount of Rs. 1,08,08,774/-, in cash, but held an amount of Rs. 1,09,829/- was paid in excess and, accordingly, allowed the excess duty paid as re-credit in the CENVAT account. The appeal filed by the Applicants herein has been rejected. The Applicants, thereafter, approached CESTAT against the said Order-in-Appeal dated 31.07.2017, which was rejected, as non-maintainable, by the CESTAT, Hyderabad, vide Final Order No. A/30542/2018 dated 17.05.2018.

3.1 The Revision Application has been filed, mainly, on the grounds that the rebate has been rejected in respect of the ARE-1 No. 66/2013-2014 dated 13.05.2013 on the grounds that the claim was time barred; that the original and duplicate copies of the said ARE-1 duly signed by the Customs officer, vide letter dated 20.06.2014, were submitted and, hence, the Range Officer was having duly verified original and duplicate copies of ARE-1 before sending his verification report on 23.06.2014; that there is no dispute with regard to export of goods and/or payment of duty on such goods; and that, therefore, the rebate claim could not have been rejected.

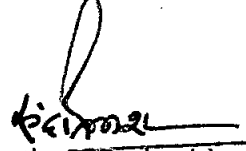
3.2 An application for condonation of delay has been filed stating that as per preamble of the Order-in-Appeal impugned herein they had filed an appeal before the CESTAT on 04.12.2017, the said Order-in-Appeal having been received on 08.09.2017. However, the said appeal was rejected by the CESTAT, vide Final Order dated 07.05.2018, which was received by them on 11.06.2018. Thereafter, the present RA has been filed, which involves a delay of about 122 days after excluding the period spent in pursuing the remedy before CESTAT. Accordingly, condonation of delay has been requested.

4. Personal hearing in the matter was fixed on 17.03.2023, 31.03.2023 and 24.04.2023. No one appeared for either side on any of the dates fixed for hearing. In response to the notice for personal hearing fixed on 24.04.2023, a request for adjournment was received by e-mail on 24.04.2023, which was rejected as the hearing on 24.04.2023 was scheduled as last and final opportunity. The Applicants were informed by e-mail, accordingly, with an advice to join the personal hearing. However, no one appeared for hearing despite the said advice. It is also ascertained from Office records and Speed Post website that the notice for PH fixed on 24.04.2023 was sent by Speed Post on 10.04.2023, vide Consignment Number ED4344021371N, which was delivered to the Applicants on 15.04.2023 whereas in the request seeking adjournment, it has been incorrectly stated that the PH Notice was received only on 21.04.2023. Since sufficient opportunities have been provided the matter is taken up for disposal based on records.

5. The Government has carefully examined the matter. The Order-in-Appeal impugned herein was admittedly received by the Applicants herein on 08.09.2017, whereas the present revision application has been filed on 13.07.2018. In the interim, the Applicants had filed an appeal before the CESTAT on 04.12.2017, which was rejected by CESTAT, as non-maintainable, on 07.05.2018. This order of CESTAT was received by the Applicant on 11.06.2018. Therefore, after excluding the period spent in pursuing the remedy in a wrong forum, i.e., CESTAT, in accordance with the principles enshrined under Section 14 of the Limitation Act, 1963, there is a delay of about 119 days in filing the present revision application. In terms of sub-section (2) of Section 35EE of the Central Excise Act, 1944, a revision application shall be made within three months from the date of communication to the Applicant of the order against which the application is being made. However, the Central Government may, if it is satisfied that the Applicant was prevented by sufficient cause from presenting the application within the aforesaid period of three months, allow it to be presented within a further period of three months. The present revision application has not been filed within the normal limitation period of 90 days even after excluding the period spent in pursuing the remedy before the wrong forum. Further, CESTAT had rejected the appeal as non-maintainable, vide Final Order dated 07.05.2018, which was pronounced and dictated in open Court. Though a copy of this Order of CESTAT is said to have been received only on 11.06.2018, it is apparent that the Applicants herein were aware on 07.05.2018 itself that their appeal had been rejected as non-maintainable by the CESTAT. Therefore, they had sufficient time, at hand, to keep the RA ready and file it immediately upon receipt of the copy of CESTAT's Order. As such, time taken from 11.06.2018, i.e., the date of receipt of the CESTAT order till filing of the present revision application, on 13.07.2018, is un-explained. It would have been another case if the Applicants had filed the present RA within a reasonable period of 07-10 days after receipt of a copy of the CESTAT's Order. In

this light, the Government finds that the subject revision application has been filed beyond the limitation period and delay, after excluding the period spent in pursuing the remedy in wrong forum, is not condonable.

6. In view of the above, the revision application is rejected as time barred.



(Sandeep Prakash)

Additional Secretary to the Government of India

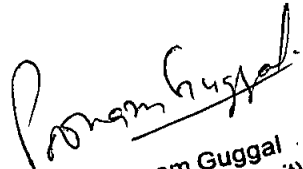
Dr. Reddy's Laboratories Ltd.,  
CTO Unit-06, Survey No(s), 5 to 9 and plot  
No(s), 5/1, 5/2, 5/3, & 5/4, APIIC Industrial  
Estate, Pydibheemavaram Ranasthalam (Mandal),  
Srikakulam-532409 (A.P.).

G.O.I. Order No. 75/23-CX dated 24-04-2023

Copy to: -

1. The Pr. Commissioner of Central Goods & Service Tax, Visakhapatnam GST Bhavan, Port Area, Visakhapatnam-530035.
2. The Commissioner (Appeals), Guntur Central Tax & Customs Sub-Office & Visakhapatnam, 4<sup>th</sup> Floor Custom House, Port Area, Visakhapatnam-530035.
3. PPS to AS (RA)
4. Guard File
5. ✓ Spare Copy.
6. Notice Board.

ATTESTED



पूनम गुग्गल / Poonam Guggal  
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