

REGISTERED
SPEED POST



F.No. 198/114/13-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... 5/8/17

Order No. 114/2017-Cx dated 04-9-17 of the Government of India, passed by Shri R.P.Sharma, Principal Commissioner & 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.44/CE/BBSR-11/2013 dated 02.09.2013 passed by Commissioner (Appeals), Central Excise, Bhubaneswar

Applicant : Commissioner of Central Excise, Bhubaneswar-II

Respondent : M/s Vedanta Aluminum Ltd., Jharsuguda, Orissa

ORDER

The Deputy Commissioner, Central Excise and Customs, Sambhal-I Division, Orissa has filed R.A. No. 198/114/13-RA dated 23.12.2013 against OIA No.44/CE/BBSR-11/2013 dated 02.09.2013, passed by Shri P.K.Mishra, Commissioner (Appeals), Central Excise & Customs, Bhubaneswar. As per details given in Form No.EA-8 the above R.A. is filed for the reason that the Commissioner (Appeals) has wrongly allowed the rebate of Rs.29356702/- to the respondent M/s Vedanta Aluminum Ltd. even when the 12 ARE-1s are not provided by them.

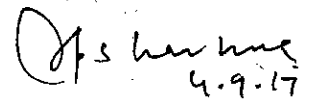
2. Personal hearing in this matter was fixed on 31st August 2017, but no one either from the applicant side or from the respondent M/s Vedanta Aluminum Ltd., Bhurkamunda, Jharsuguda, Orissa, appeared for personal hearing. No request for any other personal hearing is also requested by them from which it is implicit that the applicant and respondent are not interested in personal hearing in this matter. Hence this matter is taken up for decision on the basis of available records.

3. Condonation of delay of 15 days is sought in filing R.A for the reason that Commissioner of Central Excise, Bhubaneswar-II was on leave from 4.11.13 to 31st January 2014 because of which Review Committee was not functional to review the Order of Commissioner (Appeals) in time. This reason sounds to be genuine and the delay of 15 days is condoned.

4. Further, on examination of the R.A. it is noticed that while as per details given in Form NO.EA-8 of the aforesaid R.A. No. 198/114/13-RA dated 23.12.2013 the ground for approaching the Central Government for revision of OIA No. 44/CE/BBSR-11/2013 dated 02.09.2013 is that the Commissioner (Appeals), Bhubaneswar, has allowed rebate claim in respect of 12 ARE-1s, no appropriate reason for questioning the Commissioner (Appeals) Order has been given in the Statement of Facts and grounds of appeal attached with the Form EA-8. In fact no ground of appeal has been made in the

● R.A. against the OIA passed by the Commissioner (Appeals). On the contrary 4 grounds of appeal mentioned in R.A., serially numbered as 1,2,3 and 4, are relating to the issue of penalty under Section 11AC of the Central Excise Act and no ground of appeal is concerning the issue regarding rebate of duty which is the subject matter of the aforesaid OIA. The issue regarding penalty under Section 11AC is not a subject of impugned OIA at all and for this matter even the Central Government is not a Revisionary Authority as per Section 35B read with Section 35EE of the Central Excise Act. Thus the grounds of appeal made in the aforesaid R.A. do not relate to the issue relating to the rebate of central excise duty as allowed by Commissioner (Appeals) in his Order and wrong grounds of appeal concerning imposition of penalty under Section 11AC of the Central Excise Act have been made out in the R.A. which is not an issue at all in the Commissioner (Appeals) Order. Thus the Government finds that above R.A. No. 198/114/13-RA does not have any proper reason or ground for seeking revision by the Commissioner (Appeals) Order.

5. In view of the above discussed facts and the reasons, the Central Government do not find above R.A. as actionable and hence R.A. filed by the applicant is rejected.



(R.P.Sharma)

Additional Secretary (Revision Application)

Commissioner of Central Excise, Customs & Service Tax
Bhubaneswar-II
C.R.Building, Rajaswa Vihar,
Bhubaneswar-751007

G.O.I. Order No. 114/17-Cx dated 4-9-2017

Copy to:-

1. M/s Vedanta Aluminum Ltd., Bhurkāmunda, Bharsuguda, Orissa-768201
2. Commissioner (Appeals) Central Excise, Customs & Service Tax ,
Bhubaneswar, C.R:Building, Rajaaswa Vihar, Bhubaneswar-751001,
Odisha
3. The Deputy Commissioner, Central Excise, Customs & Service Tax,
Sambhalpur-I Division, At – Danipali, PO-Budharaja, Sambalpur, Distt.
Sambalpur-768004
4. The Assistant Commissioner of Central Excise & Customs, Sambhalpur-I
Division, Sambhalpur-768004, Orissa
5. PA to AS(Revision Application)
6. Guard File
7. Spare Copy.

ATTESTED

(Debjit Banerjee)
STO (RA)