

REGISTERED
SPEED POST



F.NO.195/239/2011-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: ...19/12/11

ORDER NO. 1768 /2012-Cx DATED 18-12.12 OF THE GOVERNMENT OF INDIA,
PASSED BY SHRI D. P. SINGH, JOINT SECRETARY TO THE GOVERNMENT OF INDIA,
UNDER SECTION 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.263/2010/Ahd-II/CE/CMC/Commr(A)/Ahd and Misc
order No.11 (Ahd-II)10 dated 25.11.2010 passed by
Commissioner of Central Excise (Appeals-I),
Ahmedabad

APPLICANT : M/s. Reliance Industries Ltd., Ahmedabad

RESPONDENT : Commissioner of Central Excise, Ahmedabad-II

ORDER

This revision application is filed by M/s Reliance Industries Ltd., Aviation Fuel Station (AFS) International Airport, Ahmedabad, against the order-in-appeal No.263/2010/Ahd-II/CE/CMC/ Commr(A)/Ahd and Misc. order No.11(Ahd-II)/10 dated 25.11.2010 passed by Commissioner of Central Excise (Appeals-I), Ahmedabad with respect to order-in-original No.468/AC/10-11/Rebate dated 8.6.2010 passed by Assistant Commissioner of Central Excise, Division-I, Ahmedabad-II Commissionerate.

2. The brief facts of the case are that the appellant had filed rebate claims before the lower authorities under the provisions of Rule 18 of the Central Excise Rules, 2002 for rebate of duty paid on clearance of Aviation Turbine Fuel (ATF) falling under sub heading 27101920 of the first schedule to the Central Excise Tariff Act, 1985 manufactured from their factory located at Motikhavdi, Jamnagar along with the requisite documents, such as ARE-I, Central Excise invoices, copies of shipping bills and bills of lading, copy of the certificate issued by the Superintendent of Central Excise Jamnagar certifying that the Central Excise duty have been paid and copies of the bank realization certificate. The lower authority had sanctioned the rebate claims vide orders-in-original under Section 11B of the Central Excise Act, 1944. Since these orders were not legal and proper, the Revenue had filed various appeals before the Commissioner Central Excise (Appeals) Ahmedabad. The said appeals of the revenue were decided vide order-in-appeal Nos.272-287/2009 (Ahd-II)CE/CMC/Commr(A) dated 02.09.2009, wherein the revenue's appeals was allowed. The applicants have filed Revision Application against the impugned O.I.A. under Section 35EE of Central Excise Act 1944 which was subsequently decided vide GOI order No.469-484/2011-Cx dated 9.5.11 in favour of the applicants. Meanwhile the lower authority issued show cause notice dated 6.4.09 and vide impugned order No.468/AC/10-11-R/Rebate dated 8.6.10, demand for erroneously sanctioned rebate was confirmed.

3. Being aggrieved by the said order-in-original, applicant filed appeal before Commissioner (Appeals) who ordered for conditional stay on pre deposit of 25% of the confirmed demand. Subsequently the applicant filed two misc. applications before Commissioner (Appeals) for waiver of pre-deposit. Commissioner (Appeals) vide impugned O.I.A. No.263/2010/Ahd-11CE/CMC/Commr (A)/Ahd & Misc order No.11(Ahd-11/10) dated 25.11.10 dismissed the appeal of the applicant for non-compliance of the provision of the section 35EE of Central Excise Act 1944 as the applicants failed to pre-deposit 25% of the amount of demand confirmed.
4. Being aggrieved by the impugned order-in-appeal, the applicant has filed this revision application under Section 35 EE of Central Excise Act, 1944 before Central Government.
5. Personal hearing scheduled in this case on 11.10.12 was attended by Ms. Reena Khair, Advocate on behalf of the applicant who reiterated the grounds of revision application and stated that their earlier revision applications filed against the order-in-appeal No.272 to 287/2009 dated 2.9.2009 & O.I.A. No.196/2010/Amd-11/CE/CMC/Commr(A)/Ahd/S/73/A-II/10 dated 18.2.10 passed by Commissioner of Central Excise (Appeals-I) Ahmedabad-I were decided in their favour vide GOI order No.469-484/2011-Cx dated 9.5.11 and GOI Order No.622/2012-Cx dated 8.6.12 respectively and therefore the present revision application may be allowed in terms of said GOI orders dated 9.5.11 and 8.6.12.
6. Government has carefully gone through the relevant case records and perused the impugned order-in-original and order-in-appeal.
7. On perusal of records Government observes that demand of erroneously sanctioned rebate claim of Rs.4,37,750/- was confirmed by the original authority vide impugned order-in-original No.468/AC/10-Reb dated 8.6.10. Commissioner (Appeals) rejected the appeal of applicant for non-compliance of provision of Section 35F of Central Excise Act 1944 as they failed to make the requisite pre-deposit of duty ordered by Commissioner (Appeals). Now applicant has filed this revision application.

8. Government notes that applicant's earlier revision application No.195/164-179/2010-RA filed against Order-in-Appeal dated 2.9.2009 and Revision Application No.195/850/2010-RA filed against Order-in-appeal No.196/2010/Ahd-II/CE/CMC/Commr(A)/Ahd/S/73/A-II/10 dated 18.8.10 on the said issue were decided vide GOI order No.469-484/2011-Cx dated 9.5.11 and GOI Order No.622/2010-Cx dated 8.6.12 respectively in their favour by restoring the order of original authority sanctioning the rebate claims. The issue already stand decided in applicant's favour and the impugned order-in-original dated 8.6.10 and order-in-appeal dated 25.11.10 cannot sustain. Therefore Government sets aside the impugned orders and allows the revision application in terms of above.

9. The revision application is disposed of in terms of above.

10. So ordered.



(D.P. Singh)

Joint Secretary (Revision Application)

M/s Reliance Industries Limited,
Aviation Fuel Station,
Near International Arrival,
Ahmedabad International Airport,
Ahmedabad – 380 003

Order No. 1768 /2012-Cx dated 18.12.2012

Copy to:

1. Commissioner of Central Excise, Ahmedabad-II, Custom House, Navrangpura, Ahmedabad – 380 009
2. Commissioner of Central Excise (Appeals-I) Ahmedabd-II, Central Excise Bhavan, Near Polytechnic, Ambawadi, Ahmedabad
3. Assst. Commissioner of Central Excise, Division-I, Ahmedabad-II Custom House, Navrangpura, Ahmedabad – 380 009
4. Ms Reena Khair, Advocate, R-163, Second Floor, Greater Kailash Pt.-I, New Delhi-110048=
5. PA to JS(RA)
6. Guard File.
7. Spare Copy

ATTESTED



(P.K. Rameshwaram)
OSD (Revision Application)

