

REGISTERED
SPEED POST



F.No. 195/200/2014-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... 13/9/17

ORDER NO. 125/2017 CX dated 11-9-2017 OF THE GOVERNMENT OF INDIA,
PASSED BY SHRI RAJPAL SHARMA, ADDITIONAL SECRETARY TO THE
GOVERNMENT OF INDIA, UNDER SECTION 35EE OF THE CENTRAL EXCISE ACT,
1944.

SUBJECT : Revision Application filed, under section 35EE of the
Central Excise Act, 1944 against the Order-in-Appeal No.
02/Kol-III/2014 dated 14.03.2014 passed by the
Commissioner of Central Excise (Appeals - I), Kolkata.

APPLICANT : M/s Krishna Traders,

RESPONDENT : Commissioner of Central Excise, Kolkata III.

ORDER

A Revision Application No. 195/200/14-RA has been filed by applicant M/s Krishna Traders, Kolkata against Commissioner(Appeal)'s Order-in-Appeal No.02/KOL-III/2014 dated 14/03/2014 rejecting the applicant's appeal against Order-in Original No. 168R/MC-KOL-III/2013-14 dated 29/05/2013 by Maritime Commissioner, Central Excise, Kolkata-III Commissionerate.

2. The Brief facts leading to the filing of the Revision Application by M/s Krishna Traders, a Merchant Exporter, are that they had claimed rebate of duty of Rs. 55,867/- against export of 16.950 MT of Non Alloy Steel Round Bright Bars in two instalments which was rejected by the Maritime Commissioner on the ground that the first part of the goods were exported within time period of six months but the rebate claim against this part export was filed after the lapse of one year and the second part of the goods were exported after the lapse of one year from procurement. The above order is upheld by the Commissioner (Appeals) also under his order dated 14/03/2014. The applicant has filed the above Revision Application with a request to condone the delay beyond 6 months from exporting the second part of the export consignment and allow the rebate by relaxing the procedural condition provided in Para 2(b) of notification n. 19/2004-CE (NT) dated 06/09/2004.

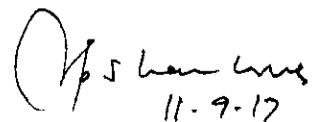
3. The main contention of the applicant in this Revision Application is that the entire quantity has been exported, they have submitted the Bank Realization Certificate for the said export, there is no dispute regarding payment of duty on procured inputs they used in the exported goods and thus they have substantially complied with all the conditions as prescribed in Rule 18 of Central Excise Rules. Therefore, they are eligible to claim the rebate of duty which is wrongly rejected by the original and appellate authorities.

4. A Personal Hearing was fixed for 06/09/2017. However, it remained unattended by the applicant as well as the respondent and instead the applicant has submitted a letter No. NMS/AR/CASE/17-18 dated 28/08/2017 reiterating their grounds of revision in their Revision Application and expressing their inability to attend the personal hearing.

5. On examination of the facts of the case and all relevant records relating to the above Revision Application, it is evident and has been accepted by the applicant also that the export of 3.9115 MT of steel was initially effected on 26/11/2011 which was within the time limit of 6 months from the date of procurement as per provisions of Notification No. 19/2004-CE(NT) dated 06/09/2004, but the rebate claim for the same was filed on 25/02/2013 before Maritime Commissioner which is well beyond the period of one year as envisaged in Section 11B of Central Excise Act, 1944. There is also no dispute that the remaining 13.0385 MT of steel was exported on 22/11/2012 which was beyond the 6 months' time period as stipulated in Notification no. 19/2004-CE(NT) dated 06/09/2004. Further, even when there is a provision in the above notification for seeking extension for export of goods, no evidence has been produced by the applicant that they ever approached the jurisdictional Principal Commissioner or Commissioner for extension and it was granted to them.

6. In view of the above stated uncontroverted facts, it is manifest that the rebate claim of the applicant in respect of both stages of export suffers from non-compliance of the conditions relating to filing of rebate claim before expiry of one year and exporting the goods within 6 months' time from the clearance of the goods from the factory as are stipulated in Section 11 B of Central Excise Act, 1944 and notification no. 19/2004.

7. Accordingly, the Government do not find any reason to interfere with the order passed by Commissioner (Appeals) in this case and hence the Revision Application filed by the applicant is rejected.


11-9-17

(RAJPAL SHARMA)

ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA

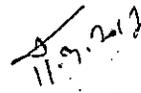
M/s. Krishna Traders 20, Hara Chandra,
Mullick Street, Sovabazar, Kolkata – 700005.

Order No 125/2017-6 dt - 11-9-2017 F. No. 195/200/2014 - R.A.

Copy to:-

1. The Commissioner of Central Excise, Kolkata - III Commissionerate, 180, Shantipally Rajdanga Main Road, Kolkata - 700107
2. The Commissioner of Central Excise (Appeals - I), 169, A. J. C. Bose Road, Bamboo Villa, 4th Floor, Kolkata - 700 014.
3. The Maritime Commissioner of Central Excise, Kolkata - III Commissionerate, 180, Shantipally, Rajdanga Main Road, 4th Floor, Kolkata - 700 107.
4. PS to AS(RA)
5. ✓ Guard File.

ATTESTED


11.9.2017
(Debjit Banerjee)
Sr. Technical Officer