

REGISTERED
SPEED POST



F.No. 198/113/2015-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. 4/4/18...

ORDER NO. 160/2018 - CE dated 2-4-2018 OF THE GOVERNMENT OF INDIA,
PASSED BY - SHRI - R.P.SHARMA, - PRINCIPAL - COMMISSIONER - & - 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.
202/Kol-IV/2015 dated 20.07.2015, passed by the
Commissioner of Central Excise (Appeals-II), Kolkata.

APPLICANT : Commissioner of Central Excise, Kolkata.

RESPONDENT : M/s. Advance Surfactants India Ltd.

ORDER

A Revision Application No. 198/113/2015-R.A. dated 04.11.2015 is filed by the Commissioner of Central Excise, Kolkata for (hereinafter referred to as Applicant) against Order—In—Appeal No. 202/Kol-IV/2015 dated 20.07.2015, passed by the Commissioner of Central Excise (Appeals), Kolkata, whereby the appeal of the respondent M/s Advance Surfactants India Ltd., Hoogly, has been allowed and the jurisdictional Assistant Commissioner's order rejecting the rebate claims of Rs.2,05,965/- has been set aside.

2. The Revision Application has been filed by the revenue mainly on the ground that the Commissioner(Appeal) has erred by not considering the fact that the description of the exported goods varied in different export documents and did not match with each other.
3. A personal hearing was fixed on 06.03.2018 in this case. However, no one appeared for the applicant. The respondent also did not attend the hearing on 06.03.2018, but requested for providing hearing after 20.03.2018. Accordingly next personal hearing was fixed on 22.03.2018. But it was also not attended by any one for the applicant or the respondent from which it is implied that they are not interested in availing hearing in this case.
4. On examination of the Revision Application, the government observes at the outset that the Revision Application has been filed on 04.11.2015 against the Order—In—Appeal dated 20.07.2015 which was received by the applicant on 27.07.2015 as per Revision Application itself. Whereas as per Section 35EE of the Central Excise Act, 1944, a Revision Application is to be filled within 3 months from

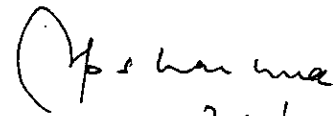
the date of communication of the Commissioner(Appeal)'s order. Thus, in this case the Revision Application was required to be filed by the Revenue by 27.10.2015. But the application has been filed on 04.11.2015 and thereby delay of 8 days has been caused in this case. The applicant has requested, vide letter dated 29.10.2015 and an application dated 20.04.2016, for condonation of 8 days delay mainly on the ground that the review order issued by the jurisdictional commissioner was communicated to the Division Office on 28.10.2015 only and the Revision Application was dispatched on 29.10.2015 due to holidays on account of Durga Puja and weekly holidays. Under proviso to Section 35EE (2) of Central Excise Act, the government is empowered to condone the delay in presenting the Revision Application before the government upto 3 months if it is satisfied that the applicant was prevented by sufficient cause from presenting the Revision Application within initial period of 3

months. But the reasons given by the applicant cannot be termed as sufficient cause which might have prevented the applicant in filling the Revision Application in time as the Durga Puja festival and weekly holidays during the relevant period were well known to the applicant and accordingly the filing of Revision Application should have been planned well in advance. For late reviewing of the OIA by the Commissioner and its delay in dispatch to the Division Office no one else can be blamed and the same could be managed much better in time by the concerned officers. Therefore, government finds that the reason given by revenue can not be considered as sufficient cause and this case does not deserve condonation of aforesaid delay. Accordingly, the Revision Application is found time barred.

5. Besides above, the Revision Application has been filed mainly on the ground that the description of exported goods did not match in different export documents. But

the relevant export documents have not been found enclosed in the Revision Application and these have not been produced even otherwise for verifying the claim of the applicant. On the other hand, the Commissioner(Appeal) has discussed this point in detail in Para 7 of his Order and has concluded that the all the export documents namely ARE-1, consignment note, bill of export, excise invoices, sales order and BRC have mentioned the exported goods as Linear Alkyl Benzene Sulphonic Acid 90% / LABSA 90% and no discrepancy in description was found by him. No such mismatch in description of goods is established even before the government. Consequently, the government does not find any fault in the Commissioner(Appeal) 's order.

6. In view of the above discussions, the Revision Application is not found maintainable both on limitation as well as on merit and hence it is rejected.


2.4.18

(R.P.Sharma)

Additional Secretary to the Government of India

M/s. Advance Surfactants India Limited
Dag No. 252 & 432, Village & PO Kaswarah
Polba District Hooghly Pincode-712102
West Bengal.

ORDER NO. 150/2018 CE dated 2-4-2018

Copy to: -

1. The Commissioner of Central Excise, Kolkata-IV, 15/1 Starander Road, M.S. Building, Customs House, Kolkata--700001.
2. The Commissioner of Central Excise (Appeals-II), Kolkata Bamboo Villa, 3rd Floor, 169, A.J.C. Bose Road, Kolkata -700014.
3. The Assistant Commissioner of Central Excise, Chandannagar-II Division, Chandannagar, District- Hooghly, Bank of Baroda Building (2nd Floor), Fatakgora, Station Road, P.O. Chandannagar, District Hooghly, West Bengal.
4. PA to AS(RA)
- ✓ 5. Guard File
6. Spare copy

ATTESTED

2.4.2018

(Debjit Banerjee)
S.T.O. (RA)