

REGISTERED
SPEED POST



F.No. 195/202/2015-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... 13/4/18

ORDER NO. 175/2018-CE dated 13-4-2018 OF THE GOVERNMENT OF INDIA,
PASSED BY SHRI R.P.SHARMA, PRINCIPAL COMMISSIONER & ADDITIONAL
SECRETARY TO THE GOVERNMENT OF INDIA, UNDER SECTION 83 OF THE Finance
Act, 1994 read with Section 35EE OF THE CENTRAL EXCISE ACT, 1944.

SUBJECT : Revision Application filed under Section 35EE of the
Central Excise Act, 1944, read with section 83 of Finance
Act, 1994, against the Order-in-Appeal No.
249(SLM)CE/JPR/2015 dated 27.04.2015, passed by the
Commissioner of Central Excise (Appeals), Jaipur.

APPLICANT : M/s.Kushalbagh.Marbles Pvt. Ltd.

RESPONDENT : The Commissioner of Central Excise, Udaipur.

ORDER

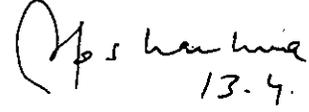
A Revision Application No. 195/202/2015 - R.A. dated 21.07.2015 has been filed by M/s Kushalbagh Marbles Pvt. Ltd., Banswara (hereinafter referred to as Applicant) against the Orders—In—Appeal No. 249(SLM) CE/JPR/2015 dated 27.04.2015, passed by the Commissioner of Central Excise(Appeals), Jaipur whereby their appeal filed against the Order-In-Original of the jurisdictional Assistant Commissioner disallowing the rebate claims was rejected on the ground that the applicant did not produce the disclaimer certificate from the merchant exporter.

2. The Revision Application has been filed mainly on the ground that they have submitted the disclaimer certificate of M/s ETRA International and, therefore, the Commissioner(Appeal) has rejected their appeal erroneously on the ground that they did not produce the disclaimer certificate.

3. Personal hearings were offered on 22.03.2018 and thereafter 12.04.2018. But no one appeared for the hearing on both the dates for the Applicant from which it is implied that the Applicant is not interested in availing personal hearing.

4. The government has examined the matter and it is found that a letter dated 26.02.2015 addressed to the Commissioner(Appeal) along with a disclaimer certificate and a declaration, both dated 10.04.2013, issued by ETRA International are found enclosed with the Revision Application. While it is not clear from the aforesaid letter whether it was received by the Commissioner(Appeal), it is now evident that the Merchant Exporter has issued a disclaimer certificate. Moreover, it is also not the case of revenue that the merchant exporter has claimed the rebate of duty in this case simultaneously. Thus the reason for denial for rebate of duty is no more in existence in the face of the disclaimer certificate produced by the Applicant and consequently the rebate of duty is admissible to the applicant in this case.

5. Accordingly, the OIA is set aside and the Revision Application is allowed.


13.4.18

(R.P. Sharma)
Additional Secretary to the Government of India

M/s Kushalbagh Marbles Pvt. Ltd.,
Road No. 5, RIICO Industrial Area,
Dahod Road, Banswara, Rajasthan
Pin - 327001.

ORDER NO. 175/2018-Ex dated 13-4-2018

Copy to: -

1. The Commissioner of Central Excise, Udaipur, 142-B, Hiran Magri, Sector-11, Near Shahi Bagh, (Rajasthan)
2. The Commissioner of Customs & Central Excise (Appeals), NCR Building, C-Scheme, Jaipur -302005
3. The Deputy Commissioner of Central Excise & Service Tax, Division Chittorgarh, Plot No. 168-172, Sector-4, Gandhinagar, Chittorgarh, Rajasthan.
4. PA to AS(RA)
5. ~~Guard File~~
6. Spare copy

ATTESTED

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