

REGISTERED
SPEED POST



F.No.198/87-88/15-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.....

Order No. 253-254/2018-Cx dated 01-5-18 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.336-337(SLM)CE/JPR/2015 dated 26.05.2015,
passed by the Commissioner (Appeals), Jaipur.

Applicant : Principal Commissioner, Central Excise, Alwar

Respondent : M/s Galore Packing India Pvt. Ltd., Bhiwadi

ORDER

Revision Applications nos. 198/87-88/15-RA dated 04.09.15 are filed by the Principal Commissioner, Central Excise, Alwar (hereinafter referred to as the applicant) against the Order-in-Appeal No. 336-337(SLM) CE/JPR/2015 dated 26/05/2015, passed by the Commissioner of Central Excise (Appeals), Jaipur, who has rejected the appeal filed by the applicant before him.

2. The brief facts leading to the present proceeding before the Government are that the respondent, M/s Galore Packing India Pvt. Ltd., Bhiwadi, had filed rebate claims for duty of excise paid on exported goods which were sanctioned by the original adjudicating authority. However, the revenue did not accept the order-in-original and the applicant filed appeal before the Commissioner (Appeals) and the same was also rejected by the Commissioner (Appeals) vide the above said order-in-appeal dated 26/05/2015.

3. The revision application is filed mainly on the ground that the chapter headings of the goods given in different export documents vary and as a result the identity of the exported goods is not established.

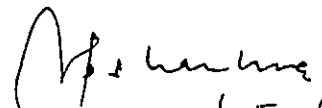
4. A personal hearing was fixed in this case on 28/02/18 and 04.04.18. Sh. Sunil Malhotra, Assistant Commissioner, attended the hearing on behalf of the applicant on 28/02/18 and reiterated the grounds of revision already pleaded in their revision application. Subsequently Sh. V. K. Agrawal, Advocate, attended the hearing on behalf of the respondent on 04/04/18 and submitted a written synopsis and mainly emphasized that the export of duty paid goods is not disputed by the applicant, the department has not made out any case of diversion of goods and the mismatch in classification is just a technical lapse.

5. On examination of the revision application, the Government finds that the revenue has sought revision in the order of the Commissioner (Appeals)'s order solely on the ground that the ARE-1 and the related shipping bill had different chapter headings. The respondent did not deny the above charge of the revenue before the Commissioner (Appeals), but also had claimed that the change in central excise tariff heading in the Shipping Bill was merely a technical lapse and there was

no evidence that the goods cleared from the factory were not exported by them. The Commissioner (Appeals) has categorically observed in the order-in-appeal that except Chapter Headings, all other particulars such as quantity, no. of packages, gross weight, net weight, rate of duty and value etc. tally in all the export documents. Further it is also evident from the ARE-Is that the goods were cleared from the factory after sealing of the container by the central excise officers and the customs authorities have certified the export of the same goods. The government

has also noticed that the applicant has not alleged and made out any case that the goods cleared from the factory were diverted in the domestic tariff area. Considering these facts, the government is inclined to agree with the conclusion of the Commissioner (Appeals) that the goods cleared under ARE-I have only been exported and the rebate of duty has been correctly allowed to the respondent by the Commissioner (Appeals).

6. Accordingly, the revision application filed by the revenue is rejected.


1.5.18

(R.P.Sharma)

Additional Secretary to the Government of India

The Principal Commissioner,
Central Excise Commissionerate,
Block A, Surya Nagar, Alwar.

Order No 253- 254/18-Cx dated 01-5-2018

Copy to:

1. M/s Galore Packaging India Pvt. Ltd., f-614, RIICO Industrial Area, Ph-I, Bhiwadi-301019
2. Commissioner of Central Excise (Appeals), Jaipur, New Central Revenue Building, "C" Scheme, Jaipur-302505
3. The Assistant Commissioner, Central Excise Division, Bhiwadi
4. PA to AS(RA)
5. Guard File.
6. Spare Copy

ATTESTED

Ndw
1-5-18

(Nirmala Devi)
(Section Officer)