

REGISTERED  
SPEED POST



F.No. 195/981-985/2013-R.A.  
F.No.195/988/2013-RA  
F.No.195/989/13-RA  
GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(DEPARTMENT OF REVENUE)

14, HUDCO VISHALA BLDG., B WING  
6<sup>th</sup> FLOOR, BHIKAJI CAMA PLACE,  
NEW DELHI-110 066

Date of Issue.. 31/8/18.....

Order No. 503-509/2018Cx dated 02-8-2018 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 Orders-in-Appeal Nos. LUD-EXCUS-000-APP-467-471-13-14 dated 23.08.2013, LUD-EXCUS-000-APP-515-13-14 dated 04.09.2013 and LUD-EXCUS-000-APP-518-13-14 dated 11.09.2013, passed by the Commissioner (Appeals) Chandigarh-I.

Applicant : M/s Gardex, Jalandhar

Respondent: The Commissioner of Central Goods & Services Tax,  
Jalandhar

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## ORDER

Three Revision Applications Nos. 195/981-985/2013-R.A. dated 03.12.2013, 195/988/2013-RA dated 16.12.2013 and 195/989/13-RA dated 16.12.2013 have been filed by M/s Gardex, Kartarpur, Jalandhar (hereinafter referred to as the applicant) against the Orders-in-Appeal Nos. LUD-EXCUS-000-APP-467-471-13-14 dated 23.08.2013, LUD-EXCUS-000-APP-515-13-14 dated 04.09.2013 and LUD-EXCUS-000-APP-518-13-14 dated 11.09.2013, passed by the Commissioner (Appeals) Chandigarh-I, rejecting the appeals of the applicant and upholding the orders of the original adjudicating authority.

2. Brief facts of the case leading to the filing of the above Revision Applications are that the rebate claims of Rs. 1,08,447/-, 2,26,183/- and 2,46,837/- filed by the applicant under Notification No. 21/2004-CE(NT) dated 06.09.2004 were rejected by the original adjudicating authority for the reasons that the applicant did not furnish information/records about generation of scrap and did not follow input output norms. The applicant's appeal before the Commissioner (Appeals) was also rejected by above mentioned Orders-In-Appeal. Being aggrieved, the applicant has filed the Revision Applications mainly on the grounds that:

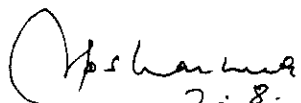
- (i) The nature of proper records to be maintained is not elaborated in the order in original and order in appeal and they had maintained all records as per advice of the jurisdictional Range Officer.
- (ii) The applicant had issued job work challans containing all relevant informations and the detail of scrap generated could be calculated from these challans.
- (iii) Substantive benefit cannot be denied for technical infractions.

3. Personal hearing was initially fixed on 15.05.2018. However, neither the applicant nor the respondent appeared for the hearing. Thereafter the second hearing was held on 06.06.2018 which was availed by Shri Ravi Chopra, Advocate, for the applicant who reiterated the grounds of revision already pleaded in their Revision Application. In addition he also stated that their records for the subsequent period have been accepted by the Commissioner(Appeals) in his subsequent order. However, no one availed hearing on both the dates for the respondents.

4. The Government has examined the matter and it is observed that the applicant and the lower authorities have made divergent claims regarding furnishing of relevant records to work out the rebate of duty admissible in this case. While the Commissioner (Appeals) and Assistant Commissioner have held that the applicant did not produce proper records regarding generation of scrap and its disposal and did not file ER-1 or ER-3 returns to verify input output norms, the applicant has claimed that even though they have not filed ER-1 or ER-3 returns yet they had filed detailed returns in the format prescribed by the jurisdictional Range Officer which contained more information than the ER-1 and ER-3 returns and the generation of scrap can be calculated from the delivery challans produced by them before the jurisdictional authorities. From these claims of the applicant it is quite evident that the periodical ER-1 or ER-3 returns have not been filed by the applicant and they did not even maintain and produce the proper record regarding generation of scrap and its disposal. As regards the claim that they had filed detailed returns in the format prescribed by the jurisdictional Range Officer containing more information than the ER-1 or ER-3 returns, it is not supported by any sample copy of such returns filed by them to the Range Officer and the legal provision under which these were filed. Even the sample copies of various documents such as daily stock register, annexure to challans, invoice cum delivery challans, retail invoices and transport documents submitted by the applicant were examined at this <sup>end</sup>. But these documents are not found authenticated and further in the retail invoices of the job worker no detail of scrap is found mentioned. Even the quantity of the finished products mentioned in the invoices of the job worker are not found tallied with the Annexure II challans

issued by the applicant. Further, GRs of the transporter Shree Balaji Road carrier, Himmat Nagar, do not contain the detail of goods sent by the job workers in terms of weight as were mentioned in the invoices of the job worker and the applicant and these are mentioned in terms of pieces only and thereby the quantity of goods and description of goods mentioned in GRs do not match with the challans and invoices of the applicant and the job worker. No other document, other than invoices, issued by the job worker is produced and thus the finding of the lower authorities that the detail of generation of scrap and its disposal are not provided by the applicant is found true by the Government also. The applicant's plea taken during the hearing that their records for the subsequent period has been accepted by the Commissioner (Appeals) in his subsequent order is found completely misplaced in the face of the above discussed anomalies in their records placed before the Government and above all the records of the of the subsequent period even if found acceptable by the Commissioner(Appeals) in his subsequent order cannot be relevant for the present proceedings involving different period and different set of documents. Therefore, the Government does not find any fault in the Commissioner (Appeals)'s order.

5. In view of the above discussion, the Revision Applications are rejected.

  
2.8.18  
(R. P. Sharma)

Additional Secretary to the Government of India

M/s Gardex,  
Unit-IV, Village: Bistrampur,  
Tehsil Kartarpur, District: Jalandhar

Order No. 503-509/2018-Cx dated 02-8-2018

Copy to:

1. The Commissioner of Central Goods & Services Tax, Jalandhar, (Hqrs. At Ludhiana), CGST House, 'F' Block, Rishi Nagar, Ludhiana 141 001.
2. The Commissioner (Appeals), Chd-1, Plot No. 19, Sector 17-C, Chandigarh.
3. The Deputy Commissioner, Central Excise Division, Jalandhar.
4. PA to AS(RA)
- ✓ 5. Guard File.
6. Spare Copy

ATTESTED

*2.8.2018*  
(Debjit Banerjee)  
Sr. Technical Officer (R. A. Unit)