

REGISTERED
SPEED POST



F.No.195/59/2015-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. 8/8/18

Order No. 511/2018-Cx dated 6-8-18 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.131(SLM)CE/JPR/2014 dated 30.12.14 passed by the Commissioner (Appeals) Jaipur

Applicant : M/s Kaizen Organics Pvt. Ltd., Jaipur

Respondent : Commissioner of CG&ST, Jaipur

ORDER

A revision application No. F.No.195/59/2015-RA dated 1.4.2015 is filed by M/s Kaizen Organics Pvt. Ltd., Jaipur (hereinafter referred to as the applicant) against Order-in-Appeal No.131(SLM)CE/JPR/2014 dated 30.12.14, passed by the Commissioner of Central Excise (Appeals), Jaipur, whereby the applicant's appeal against the Order-in-Original confirming recovery of rebate of duty under Section 11A of the Central Excise Act was rejected.

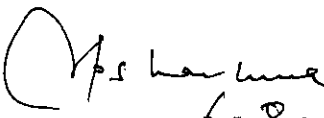
2. The brief facts of the case are that the applicant had filed rebate claim of Rs.1086706/- in respect of the export of Menthol Powder, DMO and Menthol Oil etc. which were rejected by the original authority on the ground that the applicant did not manufacture these goods as new products at their end and accordingly they were not required to pay duty on the exported goods. Their appeal was, however, allowed by the Commissioner (Appeals) vide Order-in-Appeal dated 5.9.07 by holding that rebate of duty was admissible on the exported goods. But this OIA was not accepted by the department and a revision application was filed before the Government with a request to set aside the OIA. Allowing the said revision application of the department, the Joint Secretary to the Government of India, vide his Order No.387/10-Cx dated 23.3.10, set aside the above referred OIA and as a result thereof the proceeding to recover rebate of duty granted in compliance of the Commissioner (Appeals)'s above Order was initiated against the applicant and it was confirmed by the Additional Commissioner vide his Order dated 23.5.11. The applicant's appeal against the said Additional Commissioner's Order was also upheld by the Commissioner (Appeals) vide his OIA No.131(SLM)CE/JPR/2014 dated 30.12.14 against which the present revision application has been filed by the applicant with a request to set aside the OIA on the ground that the exported goods were manufactured by them and duty was paid on its clearances for which the rebate of duty was admissible to them.

3. A personal hearing was held in this case on 31.5.18 and it was availed by Shri Arun Goyal, Advocate, for the applicant, who produced the copy of Rajasthan High Court's Order dated 20.12.17 whereby their Writ Petition against the Government's Order dated 23.3.10 has been allowed and the said Revisionary Order has been set

aside. He accordingly pleaded that the Revisionary Order dated 23.3.10, Orders of the original authority confirming recovery of rebate of duty and the Commissioner (Appeals)'s Order dated 31.12.15 have become null and void. However, no one appeared for the respondent either on the earlier hearing date on 19.4.18 or even on 31.5.18 and no request for any other date of the hearing was also received from which it is implicit that the respondent is not interested in availing the personal hearing.

4. The Government has examined the matter and it is found that the applicant had filed a Writ Petition against Government's Revisionary Order dated 23.3.10 before the Rajasthan High Court, Bench at Jaipur, by which the Commissioner (Appeals)'s Order dated 5.9.07 had been set aside and the Assistant Commissioner's OIO rejecting the rebate claims of the applicant was upheld. After the said Revisionary Order of the Government dated 23.3.10, the recovery of rebate of duty was ordered by the Additional Commissioner vide his Order dated 23.5.11 and it was upheld by the Commissioner (Appeals) vide his Order dated 30.12.14 against which the above referred revision application dated 1.4.15 was filed by the applicant. However, from the copy of the High Court's Order dated 20.12.17, produced by the applicant during the personal hearing, it is evident that the applicant's Writ Petition against the Order of the Central Government dated 23.3.10 has been allowed, the said Order of the Government dated 23.3.10 has been set aside and the rebate of duty of Rs.1086706/- has been allowed to the applicant. Consequently, the Additional Commissioner's Order dated 23.5.11 and OIA dated 30.12.14 confirming recovery of rebate of duty from the applicant have also become invalid and redundant.

5. Accordingly, the Order-in-Appeal dated 30.12.14 stands set aside and the revision application dated 1.4.15 is allowed.


6-8-18
(R.P.Sharma)

Additional Secretary to the Government of India

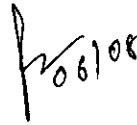
M/s Kaizen Organics Pvt. Ltd.,
G-17 & 18, RIICO Industrial Area,
Bagru Extgension-II,
Jaipur

Order No. 51/18-Cx dated 6-8-2018

Copy to:

1. Commissioner of Central Goods & Service Tax, New Central Revenue Building, Statue Circle, "C" Scheme, Jaipur-302005
2. Commissioner of Central Customs & Excise (Appeals), Jaipur, New Central Revenue Building, "C" Scheme, Jaipur-302005
3. The Additional Commissioner, Central Excise Commissionerate, Jaipur-I, New Central Revenue Building, Statue Circle, "C" Scheme, Jaipur-302005
4. PA to AS(RA)
- ✓ 5. Guard File.
6. Spare Copy

ATTESTED



(Ravi Prakash)
OSD (Revision Application)