

F.No.198/41/2015-RA

REGISTERED

SPEED POST



F. No. 198/41/2015-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.....

ORDER NO. ~~95/18-Cx~~ dated ~~5-2-2017~~ OF THE GOVERNMENT OF INDIA, PASSED BY
SHRI R.P. SHARMA, ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA,
UNDER SECTION 129DD OF THE CUSTOMS ACT, 1962.

SUBJECT : Revision Application filed, under section 35EE of the Central
Excise Act, 1944 against the Order-in-Appeal No. 253-
254(SLM)/CE/JPR/2015 dated 29.04.2015 passed by
Commissioner of Central Excise(Appeals), Jaipur.

APPLICANT : Commissioner of Central Excise, Udaipur

RESPONDENT : M/s R.G. Pigments

ORDER

A Revision Application No. 198/41/2015-RA dated 14/07/2015 has been filed by Commissioner of Central Excise, Udaipur (hereinafter referred to as applicant) against Orders-in-Appeal No. 253-254(SLM)CE/JPR/2015 dated 29.04.2015 whereby an appeal filed by Ms R.G. Pigments, Khasra No. 19, Village-Ummedpura, Distt.-Kota against the Orders-in-Original Nos 142-143/R//2014 dated 25/04/2014, passed by the Assistant/Deputy Commissioner, Central Excise, Division, Kota has been allowed.

2. The issue involved in the above Revision Applications is whether rebate of duty is admissible to the respondent on export of goods under DFIA scheme. The original adjudicating authority rejected the rebate Claims of the respondent on the ground that the respondent has wrongly paid the duty from CENVAT credit accounts on exported goods despite of the fact that goods were exported under DFIA scheme as per which they were not entitled to pay duty on the finished exported products and the respondent had paid duty on the exempted goods exported out of India without any authority of law.

3. Personal Hearing in the matter was fixed for 05.12.2017. But nobody attended the hearing and no request for its adjournment from applicant was also received from which it is implied that the applicant is not interested in personal hearing. Therefore, the revision application is taken up for disposal on the basis of materials available on record.

4. On examination of all the relevant records, it is clearly noticed that the goods manufactured by respondent have been exported on payment of duty from CENVAT Credit and no doubt has been expressed by any departmental authority about this fact.

Only reason cited for rejection of the rebate claim of the respondent by AC, Division and the Commissioner (Appeals) is that the respondent was not authorized to pay duty of excise on goods exported under DFIA Scheme. The respondent has also not denied this fact. However, no Central excise provision has been cited by Assistant Commissioner in the revision application which prohibited the manufacturer to pay Central excise duty on exported goods while availing DFIA scheme. Whereas, as per the provisions of the Rule 18 of the Central excise Rules, 2002, if any goods on which the central excise duty has been paid on the exported goods then the same is to be

reimbursed as rebate of duty and it does not stipulate that if the goods are exported under DFIA scheme then the exporter cannot pay the duty on such goods. Therefore, no legal basis has been provided in this case to establish that the respondent has committed any error by paying duty on exported goods. Since the respondent has undoubtedly paid duty on exported goods utilizing CENVAT Credit already available with them, no legal error can be attributed in this case as it is also not the case of the applicant that CENVAT credit was not legitimately earned by the respondent. Since the respondent has undoubtedly exported the goods on payment of Central excise duty and no contravention of any other condition stipulated in Rule 18 of Cenvat Credit Rules, 2002 and notification no. 19/2004-CE (NT) has been alleged in the case, rebate of duty is admissible to the respondent.

5. In view of the above facts and discussions, the revision application filed by the applicant is rejected.

R.P. Sharma
5.2.18

(R.P.SHARMA)

(Additional Secretary to the Government of India)

The Commissioner of Central Excise & Service tax,
Udaipur, 142 – B, Sector – 11, Hiran Magri,
Udaipur – 313 002(Rajasthan)

ATTESTED

(Ravi Prakash)

OSD (RA)

Attested

MD
5-2-18

(निर्मला देवी / NIRMALA DEVI)
अनुभाग अधिकारी / Section Officer
वित्त मंत्रालय (राजस्व विभाग)
Ministry of Finance (Deptt. of Rev.)
भारत सरकार / Govt. of India
नई दिल्ली / New Delhi

Order No.

95/18-Cx dated 5-2-2018

Copy to:-

1.M/s. R.G. Pigments Pvt. Ltd., Khasra No. 19, Village-Ummedpura, Distt.-Kota.

(Raj.), 324005.

2.The Commissioner (Appeals), Central Excise, Jaipur, NCR Building Statue

Circle, C-Scheme, Jaipur.

3.The Assistant/Dy. Commissioner of Central Excise Division Kota, CAD Circle,

DADA Bari Road, Kota Rajasthan 324009

4. PS to AS (Revision Application).

✓ 5. Guard File.

6. Spare Copy.