

REGISTERED
SPEED POST



F.No. 196/34/ST/2016-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.....

Order No. 10/2018 -ST dated 01-03-18 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 read with Section 83 of Finance Act, 1994.

Subject : Revision Application filed under section 35 EE of the Central Excise Act, 1944 read with Section 83 of Finance Act, 1994 against the Order-in-Appeal No.102/ST-II/KOL/2016-17 dated 26.7.2016 passed by Commissioner of Central Excise (Appeals), Kolkata

Applicant : M/s. Global Export and Marketing Division of BGH Exim Ltd., Kolkata

Respondent : Commissioner of Central Excise, Kolkata

ORDER

A revision application No. 196/34/ST/2016 dated 13.10.2016 has been filed by M/s. Global Export and Marketing Division of BGH Exim Ltd., Kolkata (hereinafter referred to as the applicant) against the Order in Appeal No.102/ST-II/KOL/2016-17 dated 26.7.2016, passed by the Commissioner of Central Excise (Appeals), Kolkata, whereby the Department's appeal is allowed and the Deputy Commissioner's Order allowing rebate of service tax to the applicant is set aside.

2. Revision application has been filed mainly on the ground that the Order in Appeal has been passed in defiance of the Notification No.41/2012-ST dated 29.6.12, the same should be set aside and the Order in Original should be restored.

3. A personal hearing was held on 6.2.18 in this case and it was attended by Shri Abhishek Jalan, Advocate, for the applicant and Shri Malsawmtluanga, Assistant Commissioner, Kolkata, for the respondent. While Shri Jalan emphasized on allowing their revision application for the reasons discussed in their revision application and additional submissions provided during the hearing, the Assistant Commissioner opposed the revision application for the reasons discussed in Order in Appeal.

4. On examination of the revision application, it is noticed by the Government at the outset that the revision application involving rebate of service tax of Rs.289219 filed on 13.10.2016 is accompanied by a fee of Rs.200/- only as per challan dated 7.10.16. Whereas as per Section 35EE of the Central Excise Act, 1944, read with Section 83 of Finance Act, 1994, a revision application is to be accompanied by a fee of Rs.1000/- where the amount of rebate of service tax is more than Rs.1.00 lakh. This requirement of payment of fee is mandatory and no relaxation in this regard can be provided under the aforesaid Section or any other provision. Thus if any application is not accompanied by the specified fee, such application cannot be considered as proper revision application. Since in this case the fee of Rs.200/- has only been paid in place of Rs.1000/-, the aforesaid revision application dated 13.10.16 cannot be considered to have been filed properly by the applicant under above stated provision.

5. Accordingly, the revision application is non-entertainable and the same is rejected without going into the merits of the case.

(R.P.Sharma)
1.3.18

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

M/s. Global Export and Marketing Division of BGH Exim Ltd.,
Industry House , 10 Camac Street
Kolkata-700017

ORDER NO. 10/2018-ST dated 01-03-2018

Copy to: -

1. Commissioner of Service Tax, Service Tax-II Commissionerate, 3rd Floor, Kendriya Utpad Shulk Bhavan, 180, Rajdanga Main Road, Shantipally, Kolkata-700107.
2. Commissioner (Appeals-II), Central Excise, Commissionerate, Kolkata
3. The Deputy Commissioner of Service Tax, Park Street Division, Service Tax-II Commissionerate, Kolkata
4. PA to AS(RA)
- ✓ 5. Guard File
6. Spare copy

ATTESTED

1.3.2018
(Debjit Banerjee)
STO (RA)