

REGISTERED  
SPEED POST



F.No.195/358/2015-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...7..12/18

Order No. 630/2018-Cx dated 5-12-18 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.07/Kol-III/2015 dated 1.07.2015 passed by the Commissioner of Central Excise (Appeals) Kolkata

Applicant : M/s Sesa International Ltd., Kolkata

Respondent : Commissioner of Central Excise, Kolkata-III

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**ORDER**

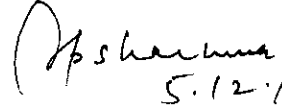
A Revision Application No.195/358/2015-RA dated 19.10.2014 is filed by M/s Sesa International Ltd., Kolkata (hereinafter referred to as the applicant), against the Order-in-Appeal No.07/Kol-III/2015 dated 1.07.2015, passed by the Commissioner of Central Excise (Appeals) whereby the applicant's appeal filed against the Order-in-Original is rejected on the ground that their appeal was time barred and he did not have any power under Section 35 to condone the delay of more than 30 days.

2. A personal hearing was offered on 10.10.18. But no one availed hearing for the applicant as well as the respondent. Further, no request from them is also received for fixing of any other date of hearing from which it is implicit that they are not interested in availing personal hearing in this case. Hence the revision application is taken up for a decision on the basis of available records.

3. The Government has examined the matter and has found that the Commissioner (Appeals) has rejected the appeal of the applicant solely on the ground that they had filed the appeal before him after delay of more than 30 days, he did not have any power to condone the delay of more than 30 days and thus their appeal was time barred. The applicant has also not explained in the revision application as to how the Order of the Commissioner (Appeals) is erroneous when Section 35 clearly provides that the Commissioner (Appeals) has authority to condone the delay upto 30 days only and that too when he is satisfied that the applicant was prevented by sufficient cause from presenting the appeal within the normal period of 60 days. In the light of this clear provision, the Government does not find any fault in the Commissioner (Appeals)'s Order and the revision application is not maintainable in absence of any deficiency on the part of the Commissioner (Appeals). Besides above reason, it is also noticed that even the revision application has been filed after delay of 3 days and no application for condonation of delay has been filed even after the applicant was requested for filing the same immediately vide Section Officer's letter No. 195/358/2015-RA dated 23.11.15. Consequently, the revision application is also time barred in the light of Section 35EE(2) of the Central Excise Act as per which the revision application was required to be filed

within 3 months from the receipt of the OIA which was received in this case on 16.7.15.

4. Accordingly, the revision application is rejected.

  
5.12.18

(R.P.Sharma)

Additional Secretary to the Government of India

M/s Sesa International Ltd.,  
21, Shakespeare Sarani,  
Jamine Tower, 6<sup>th</sup> Floor,  
Room No.611  
Kolkata-700017

Order No. 630/18-Cx dated 5-12-2018

Copy to:

1. Commissioner of Central Excise (Central Goods & Service Tax), Kolkata-III Commissionerate, 180, Shantipally, Rajdanga Main Road, Kolkata-700135.
2. Commissioner (Appeals-II) Central Excise, Kolkata, Bamboo Villa, 3<sup>rd</sup> Floor, 169, AJC Bose Road, Kolkata-700014.
3. The Maritime Commissioner, Central Excise, Kolkata-III Commissionerate Export Refund Branch, New Central Excise Building, 4<sup>th</sup> Floor, E.M.Bypass, 180, Shantipally, Rajdanga Main Road, Kolkata-700135.
4. PA to AS(RA)
5. Guard File.
6. Spare Copy

ATTESTED



(Ashish Tiwari)

Assistant Commissioner