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F.No. 195/30/17-R.A.Cx  
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...10/11/18

Order No. 635/18-Cx dated 5-12-2018 of the Government of India, passed by Shri R.P.Sharma, Principal Additional Secretary to the Government of India, under section 35 of the Central Excise Act, 1944.

Subject : Revision App. under section 35EE of the Central Excise Act, the Order-in-Appeal No. 265/CE/DLH/11.2016, passed by the Commissioner of Central Excise (Appeals-1), New Delhi.

Applicant : M/s Tej Ram Dharam Paul

Respondent : The Commissioner of CGST, Rohtak

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**ORDER**

A Revision Application No. 195/30/17-R.A.Cx dated 20.02.2017 has been filed by M/s Tej Ram Dharam Paul, Sonapat, Haryana, (hereinafter referred to as the applicant) against the Order-in-Appeal No. 265/CE/DLH/2016 dated 18.11.2016, passed by the Commissioner (Appeals-1), Central Excise, New Delhi.

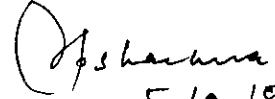
2. Brief facts leading to the filing of the Revision Application are that the applicant, engaged in manufacturing branded chewing tobacco, filed a rebate claim of Rs. 3937531/- for export of chewing Tobacco under Rule 18 of Central Excise Rules 2002, read with Rule 14 of the Chewing Tobacco and Unmanufactured Tobacco Packing Machines (capacity determination and collection of duty) Rules 2010. While the original adjudicating authority sanctioned a rebate amount of Rs. 2681827/-, he rejected the claim of Rs. 1255704/- on the ground that White Horse Filter Tobacco exported by the applicant had not been declared to the jurisdictional Central Excise Range in Form-1. Their appeal filed before the Commissioner (Appeals) is also rejected vide above referred order in appeal and the present Revision Application is filed mainly on the grounds that they have fulfilled all conditions stipulated in Rule 14 of the Packing Machine Rules, notification No. 22/2010 CE(NT) dated 18.05.2010 etc. and, therefore, the rebate of duty in respect of exported white horse brand of chewing tobacco is wrongly denied to them for the technical reason that the description of the exported goods did not match with the goods declared in Form-1.

3. Personal hearing was offered on 24.10.2018 which was availed by Sh. Ashwani Sharma, advocate, on behalf of the applicant who reiterated the grounds of Revision already pleaded in the Revision Application and provided copies of decisions relied upon by them.

4. The Government has examined the matter and it is observed that it is not in dispute that the applicant is a manufacturer of chewing tobacco only and different

brands were used for its sale in India and outside India. It is admitted in Order-in-Appeal also that the applicant had declared several branded chewing tobacco in Form-1 vide their letter dated 25.11.2014 and white horse chewing tobacco without lime tube was one of the several such declared branded chewing tobacco. Further there is no doubt that the applicant had exported white horse filter tobacco on payment of duty which is claimed to be a chewing tobacco only manufactured in the factory of the applicant. The lower authorities have also not given any contrary evidence to establish that the said exported product was not a chewing tobacco or it had been manufactured outside the factory of the applicant. Since the applicant manufactured only chewing tobacco and white horse brand of chewing tobacco was already declared in the Form-1 to the jurisdictional authorities, it is not fair to say that the exported white horse filter tobacco is not a chewing tobacco in absence of having any concrete evidence. The description "white horse chewing Tobacco" as name of exported goods given in Form-1 is certainly comprehensive and the 'white horse filter tobacco' as given in the exported documents does not certainly match with the description of the goods given in the Form-1 but the above facts and other circumstances clearly support the applicant's case that white horse filter tobacco exported to other countries is nothing but the white horse chewing tobacco only and this kind of mismatching of the description is a lapse of technical nature only for which the benefit like rebate of duty cannot be denied. Further, leaving aside the above technical reason regarding non matching of the exported goods with the goods declared in the Form-1, it is fully established in this case that the goods were exported on payment of duty and the applicant has satisfied all other conditions specified in Rule 14 of the Packing Machine Rules, notification 22/2010 and other legal provisions relevant in this case which are sufficient grounds for allowing rebate of duty in the instant case. Granting of rebate in the present case is also supported by several decisions such as Sanket Industries Ltd. 2011(268) ELT 125 (401), Karnal Knitwears VCCE, Chandigarh 2001 (136) ELT 467 (Tri-Delhi) and Murli Agro Products Ltd. VCCE, Nagpur 2005 (183) ELT 277 which are relied upon by the applicant in the Revision Application which emphasise that procedural/technical lapses should not stand in the way of benefit allowed by export oriented schemes.

5. In view of the above discussions the Government sets aside the Order of the Commissioner (Appeals) and the Revision Application filed <sup>by</sup> M/s Tej Ram Dharam Paul is allowed.

  
5.12.18  
(R.P.Sharma)

Additional Secretary to the Government of India

M/s Tej Ram Dharam Paul,  
Main Road, Village-Nathupur,  
District: Sonapat-131 029, Haryana

Order No. 635/18-Cx dated 5-12-2018

Copy to:

1. The Commissioner of Central Goods & Service Tax, IIInd Floor, Pacific City Centre, Opposite Shangrila Hotel, Near Jat Bhawan, Delhi Bypass, Rohtak-124 001.
2. The Commissioner, Central Excise (Appeals-I) Delhi Room No. 134, Central Revenue Building, I.P. Estate, New Delhi.
3. The Assistant Commissioner, Central Excise, Division-Kundli, HSIDC Complex, Distt-Sonapat (H.R.)
4. Mr. Ashwani Sharma, Advocate, C/o Zeus Law Associates, 2, Palam Marg, Vasant Vihar, New Delhi.
5. PA to AS(RA)
6. Guard File.
7. Spare Copy

ATTESTED

(Debjit Banerjee)  
STO (REVISION APPLICATION)