

F. No. 198/134-136/2017-R.A.

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F. No. 198/134-136/2017-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. 715717/2018-Cx dated 27-12-18 of the Government of India, passed by Shri R.P. Sharma, Principal Commissioner & Additional Secretary to the Government of India, under Section 35EE of the Central Excise Act, 1944.

Subject : Revision Applications filed under Section 35EE of the Central Excise Act, 1944 against the Order-In-Appeal No. 78-80(AK)CE/JPR/2017 dated 18.05.2017, passed by the Commissioner of Customs & Central Excise (Appeals), Jaipur.

Applicant : The Commissioner, CGST, Udaipur.

Respondent : M/s Suzuki Synthetics P. Ltd., Village Gudda, Post Mandal, Distt- Bhilwara, Rajasthan- 311405.

ORDER

Three Revision Applications No. 198/134-136/2017-R.A. dt. 22.08.2017 are filed by the Commissioner of CGST, Udaipur (hereinafter referred to as the applicant) against the Order-In-Appeal No. 78-80(AK)CE/JPR/2017 dated 18.05.2017, passed by the Commissioner of Customs & Central Excise (Appeals), Jaipur, whereby the appeals of the respondent, M/s Suzuki Synthetics P. Ltd., have been allowed and the Orders-in-Original of the Deputy Commissioner rejecting the rebate claims of the respondent have been set aside.

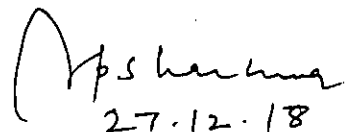
2. The Revision Applications are filed mainly on the ground that after the respondent had requested the Divisional Deputy Commissioner to surrender their Central Excise registration on 09.03.2005 the balance CENVAT Credit available with the respondent had lapsed and the same could not be utilized subsequently for payment of Central Excise duty on the exported goods to enable them for getting rebate of duty.

3. A personal hearing was earlier fixed on 24.10.2018 and the second hearing was scheduled on 27.11.2018 on the request of the respondent which was availed by the advocate of the respondent who opposed the Revision Applications for the reason that Order-In-Appeal is just and proper. However, no one appeared for the applicant on both the said dates and no reason for non availing of the hearing was also given from which it is evident that the applicant is not interested in availing the personal hearing.

4. The Government has examined the matter and it is observed that while it is not in dispute that the respondent had requested to surrender their Central Excise registration on 09.03.2005, it is also an accepted fact that the respondent had later on withdrawn their request for surrender of Central Excise registration vide their letter dt. 09.11.2005 and the same was accepted by the Deputy Commissioner. In fact, he also returned the old Central Excise registration vide his letter dt. 07.12.2005. In the light of these facts, the Commissioner (Appeals) has clearly observed that since the request of surrender of registration had not

been accepted and instead the Deputy Commissioner had returned the registration in original, all the rights and liabilities in respect of the said registration remained unaffected. Accordingly, the balance CENVAT Credit had not lapsed as was claimed in the Order-in-Original and the respondent had correctly paid Central Excise duty on the exported goods from their balance CENVAT Credit account. It is further mentioned in the Order-in-Appeal that even earlier the Commissioner (Appeals) vide his order dt. 17.01.2007 had decided the identical matter in favour of the respondent against which no Revision Application is filed before the Government of India till now. Considering the above narrated facts, the Government is also fully in agreement with the Commissioner (Appeals) that since the Central Excise registration had not been cancelled by the Divisional Deputy Commissioner at any stage, the CENVAT Credit already in balance with the respondent could not be denied just on the ground that they had expressed their intention to surrender their registration earlier and thus the payment of duty from the legitimately earned CENVAT Credit cannot be held erroneous so as to deny the rebate of duty against duty paid exported goods. Therefore, there is no reason for any interference in the Order-in-Appeal and the Revision Applications are manifestly unwarranted in this matter.

5. In view of the above discussions, the Revision Applications are rejected.


27.12.18

(R.P.Sharma)

Additional Secretary to the Government of India

The Commissioner, CGST,
142-B, Sector-11, Hiran Magari,
Near Shahi Bagh, Udaipur,
Rajasthan-313001.

Order No. 715-717 /2018-Cx dated 27-12-2018

Copy to:

1. M/s Suzuki Synthetics P. Ltd., Village Gudda, Post Mandal, Distt- Bhilwara, Rajasthan- 311405.
2. The Commissioner (Appeals), Central Excise & Customs, Jaipur, New Central Revenue Building, Statue Circle, "C" Scheme, Jaipur-302005.
3. The Assistant Commissioner of CGST, Division- Bhilwara, Bhilwara 10, Azad Nagar, Bhilwara 311001.
4. P.A. to A.S.(R.A.)
5. Guard File
6. Spare copy

ATTESTED



(Ravi Prakash)
O.S.D. (R.A.)