


<b>केन्द्रीय कर आयुक्त (अपील)</b>		
<b>O/O THE COMMISSIONER (APPEALS), CENTRAL TAX,</b>		
केन्द्रीय उत्पाद शुल्क भवन,	7 <sup>th</sup> Floor, Central Excise Building	
सप्तमी मंजिल, पोलिटिकलिक के पास,	Near Polytechnic,	
आम्बावाडी, अहमदाबाद-380015	Ambavadi, Ahmedabad-380015	
079-26305065		टेलिफैक्स: 079-26305136

रजिस्टर डाक ए .डी .द्वारा

क फाइल संख्या (File No.): **V2(44)16/EA-2/North/Appeals/ 2017-18 /2785 to 2789**  
 ख अपील आदेश संख्या (Order-In-Appeal No.): **AHM-EXCUS-002-APP- 401-16-17**  
 दिनांक (Date): **27.03.2018**, जारी करने की तारीख (Date of issue): **23/04/18**  
 श्री उमा शंकर, आयुक्त (अपील) द्वारा पारित  
 Passed by **Shri Uma Shanker**, Commissioner (Appeals)

ग \_\_\_\_\_ आयुक्त, केन्द्रीय उत्पाद शुल्क, (मंडल-III), अहमदाबाद- II, आयुक्तालय द्वारा जारी  
 मूल आदेश सं \_\_\_\_\_ दिनांक \_\_\_\_\_ से सृजित  
 Arising out of Order-In-Original No. **1100/RI/17-18** Dated: **13/10/2017**  
 issued by: Assistant Commissioner., Central GST (Div-III), Ahmedabad North

घ अपीलकर्ता/प्रतिवादी का नाम एवम पता (Name & Address of the Appellant/Respondent)

**M/s Wood Star (India) Pvt Ltd**

कोई व्यक्ति इस अपील आदेश से असंतोष अनुभव करता है तो वह इस आदेश के प्रति यथास्थिति नीचे बताए गए सक्षम अधिकारी को अपील या पुनरीक्षण आवेदन प्रस्तुत कर सकता है।

Any person an aggrieved by this Order-in-Appeal may file an appeal or revision application, as the one may be against such order, to the appropriate authority in the following way:

भारत सरकार का पुनरीक्षण आवेदन :

**Revision application to Government of India:**

(1) (क) (i) केन्द्रीय उत्पाद शुल्क अधिनियम 1994 की धरा अतत नीचे बताए गए मामलों के बारे में पूर्वोक्त धारा को उप-धारा के प्रथम परंतुक के अंतर्गत पुनरीक्षण आवेदन अधीन सचिव, भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, चौथी मंजिल, जीवन दीप भवन, संसद मार्ग, नई दिल्ली-110001 को की जानी चाहिए।

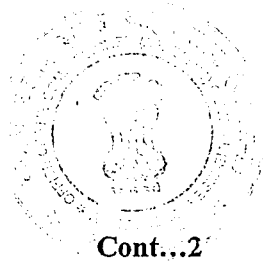
A revision application lies to the Under Secretary, to the Government of India, Revision Application Unit, Ministry of Finance, Department of Revenue, 4th Floor, Jeavar: Deep Building, Parliament Street, New Delhi-110001, under Section 35EE of the CEA 1944 in respect of the following case, governed by first proviso to sub-section (1) of Section-35 ibid:

(ii) यदि माल की हानि के मामले में जब हानि कारखाने से किसी भंडारगार या अन्य कारखाने में या किसी भंडारगार से दूसरे भंडारगार में माल ले जाते हुए मार्ग में, या किसी भंडारगार या भंडार में चाहे वह किसी कारखाने में या किसी भंडारगार में हो माल की प्रकिया के दौरान हुई हो।

In case of any loss of goods where the loss occur in transit from a factory to a warehouse or to another factory or from one warehouse to another during the course of processing of the goods in a warehouse or in storage whether in a factory or in a warehouse

(ख) भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित माल पर या माल के विनिर्माण में उपयोग शुल्क कच्चे माल पर उत्पादन शुल्क के रिबेट के मामले में जो भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित है।

*G. P. Jindal*



Cont...2

- (c) In case of goods exported outside India export to Nepal or Bhutan, without payment of duty.

अंतिम उत्पादन की उत्पादन शुल्क के भुगतान के लिए जो ड्यूटी क्रेडिट मान्य की गई है और ऐसे आदेश जो इस धारा एवं नियम के मुताबिक आयुक्त, अपील के द्वारा पारित वो समय पर या बाद में वित्त अधिनियम (नं.2) 1998 धारा 109 द्वारा नियुक्त किए गए हो।

- (d) Credit of any duty allowed to be utilized towards payment of excise duty on final products under the provisions of this Act or the Rules made there under and such order is passed by the Commissioner (Appeals) on or after, the date appointed under Sec.109 of the Finance (No.2) Act, 1998.

- (1) केन्द्रीय उत्पादन शुल्क (अपील) नियमावली, 2001 के नियम 9 के अंतर्गत विनिर्दिष्ट प्रपत्र संख्या इए-8 में दो प्रतियों में, प्रेषित आदेश के प्रति आदेश प्रेषित दिनांक से तीन मास के भीतर मूल-आदेश एवं अपील आदेश की दो-दो प्रतियों के साथ उचित आवेदन किया जाना चाहिए। उसके साथ खाता इ. का मुख्यशीर्ष के अंतर्गत धारा 35-इ में निर्धारित फी के भुगतान के सबूत के साथ टीआर-6 चलान की प्रति भी होनी चाहिए।

The above application shall be made in duplicate in Form No. EA-8 as specified under Rule, 9 of Central Excise (Appeals) Rules 2001 within 3 months from the date on which the order sought to be appealed against is communicated and shall be accompanied by two copies each of the OIO and Order-In-Appeal. It should also be accompanied by a copy of TR-6 Challan evidencing payment of prescribed fee as prescribed under Section 35-EE of CEA, 1944, under Major Head of Account.

- (2) रिविजन आवेदन के साथ जहाँ संलग्न रकम एक लाख रुपये या उससे कम हो तो रुपये 200/- फीस भुगतान की जाए और जहाँ संलग्न रकम एक लाख से ज्यादा हो तो 1000/- की फीस भुगतान की जाए।

The revision application shall be accompanied by a fee of Rs.200/- where the amount involved is Rupees One Lac or less and Rs.1,000/- where the amount involved is more than Rupees One Lac.

सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण के प्रति अपील:-  
Appeal to Custom, Excise, & Service Tax Appellate Tribunal.

- (1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1944 की धारा 35-बी/35-इ के अंतर्गत:-

Under Section 35B/ 35E of CEA, 1944 an appeal lies to :-

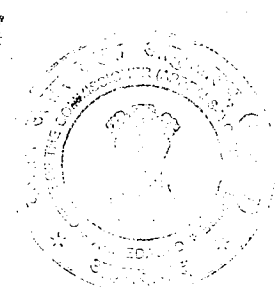
- (क) वर्गीकरण मूल्यांकन से संबंधित सभी मामले सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण की विशेष पीठिका वेस्ट ब्लॉक नं. 3. आर. के. पुरम, नई दिल्ली को एवं

- (a) the special bench of Custom, Excise & Service Tax Appellate Tribunal of West Block No.2, R.K. Puram, New Delhi-1 in all matters relating to classification valuation and.

- (ख) उक्तलिखित परिच्छेद 2 (1) क में बताए अनुसार के अलावा की अपील, अपीलों के मामले में सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट) की पश्चिम क्षेत्रीय पीठिका, अहमदाबाद में ओ-20, न्यू मेटल हास्पिटल कम्पाउण्ड, मेघानी नगर, अहमदाबाद-380016.

- (b) To the west regional bench of Customs, Excise & Service Tax Appellate Tribunal (CESTAT) at O-20, New Metal Hospital Compound, Meghani Nagar, Ahmedabad : 380 016. in case of appeals other than as mentioned in para-2(i) (a) above.

- (2) केन्द्रीय उत्पादन शुल्क (अपील) नियमावली, 2001 की धारा 6 के अंतर्गत प्रपत्र इ.ए-3 में निर्धारित किए अनुसार अपीलीय न्यायाधिकरणों की गई अपील के विरुद्ध अपील किए गए आदेश की चार प्रतियाँ सहित जहाँ उत्पाद शुल्क की मांग, ब्याज की मांग और लगाया गया जुर्माना रूपए 5 लाख या उससे कम है वहां रूपए 1000/- फीस भेजनी होगी। जहाँ उत्पाद शुल्क की मांग, ब्याज की मांग और लगाया गया जुर्माना रूपए 5 लाख या 50 लाख तक हो तो रूपए 5000/- फीस भेजनी होगी। जहाँ उत्पाद शुल्क की मांग, ब्याज की मांग और लगाया गया जुर्माना रूपए 50 लाख या उससे ज्यादा है वहां रूपए 10000/- फीस भेजनी होगी। की फीस सहायक रजिस्टार के नाम से



रेखांकित बैंक ड्राफ्ट के रूप में संबंध की जाये। यह ड्राफ्ट उस स्थान के किसी नामित सार्वजनिक क्षेत्र के बैंक की शाखा का हो जहाँ उक्त न्यायाधिकरण की पीठ स्थित है।

The appeal to the Appellate Tribunal shall be filed in quadruplicate in form EA-3 as prescribed under Rule 6 of Central Excise(Appeal) Rules, 2001 and shall be accompanied against (one which at least should be accompanied by a fee of Rs.1,000/-, Rs.5,000/- and Rs.10,000/- where amount of duty / penalty / demand / refund is upto 5 Lac, 5 Lac to 50 Lac and above 50 Lac respectively in the form of crossed bank draft in favour of Asstt. Registrar of a branch of any nominate public sector bank of the place where the bench of any nominate public sector bank of the place where the bench of the Tribunal is situated.

- (3) यदि इस आदेश में कई मूल आदेशों का समावेश होता है तो प्रत्येक मूल आदेश के लिए फीस का भुगतान उपर्युक्त ढंग से किया जाना चाहिए इस तथ्य के होते हुए भी कि लिखा पढ़ी कार्य से बचने के लिए यथास्थिति अपीलीय न्यायाधिकरण को एक अपील या केन्द्रीय सरकार को एक आवेदन किया जाता है।

In case of the order covers a number of order-in-Original, fee for each O.I.O. should be paid in the aforesaid manner notwithstanding the fact that the one appeal to the Appellate Tribunal or the one application to the Central Govt. As the case may be, is filled to avoid scriptoria work if excising Rs. 1 lacs fee of Rs.100/- for each.

- (4) न्यायालय शुल्क अधिनियम 1970 यथा संशोधित की अनुसूची-1 के अंतर्गत निर्धारित किए अनुसार उक्त आवेदन या मूल आदेश यथास्थिति निर्णयन प्राधिकारी के आदेश में से प्रत्येक की एक प्रति पर रु.6.50 पैसे का न्यायालय शुल्क टिकट लगा होना चाहिए।

One copy of application or O.I.O. as the case may be, and the order of the adjournment authority shall a court fee stamp of Rs.6.50 paise as prescribed under scheduled-I item of the court fee Act, 1975 as amended.

- (5) इन ओर संबंधित मामलों को नियंत्रण करने वाले नियमों की ओर भी ध्यान आकर्षित किया जाता है जो सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (कार्याविधि) नियम, 1982 में निहित है।

Attention is invited to the rules covering these and other related matter contended in the Customs, Excise & Service Tax Appellate Tribunal (Procedure) Rules, 1982.

- (6) सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट), के प्रति अपील के मामले में कर्तव्य मांग (Demand) एवं दंड (Penalty) का 10% पूर्व जमा करना अनिवार्य है। हालांकि, अधिकतम पूर्व जमा 10 करोड़ रुपए है। (Section 35 F of the Central Excise Act, 1944, Section 83 & Section 86 of the Finance Act, 1994)

केन्द्रीय उत्पाद शुल्क और सेवा कर के अंतर्गत, शामिल होगा "कर्तव्य की मांग" (Duty Demanded) -

- (i) (Section) खंड 11D के तहत निर्धारित राशि;
- (ii) लिया गलत सेनवैट क्रेडिट की राशि;
- (iii) सेनवैट क्रेडिट नियमों के नियम 6 के तहत देय राशि.

⇒ यह पूर्व जमा 'लंबित अपील' में पहले पूर्व जमा की तुलजा में, अपील दाखिल करने के लिए पूर्व शर्त बना दिया गया है।

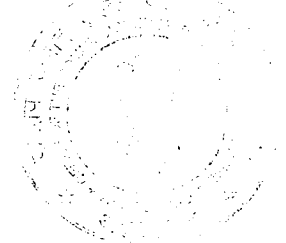
For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT. (Section 35 C (2A) and 35 F of the Central Excise Act, 1944, Section 83 & Section 86 of the Finance Act, 1994)

Under Central Excise and Service Tax, "Duty demanded" shall include:

- (i) amount determined under Section 11 D;
- (ii) amount of erroneous Cenvat Credit taken;
- (iii) amount payable under Rule 3 of the Cenvat Credit Rules.

इस सन्दर्भ में इस आदेश के प्रति अपील प्राधिकरण के समक्ष जहाँ शुल्क अथवा शुल्क या दण्ड विवादित हो तो माँग किए गए शुल्क के 10% भुगतान पर और जहाँ केवल दण्ड विवादित हो तब दण्ड के 10% भुगतान पर की जा सकती है।

In view of above, an appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute."



ORDER IN APPEAL

Revenue Department (*hereinafter referred to as 'appellant revenue or revenue'*) have filed the present appeals against the Order-in-Original No. 1100/R/1/17-18 dated 13.10.2017 (*hereinafter referred to as 'impugned orders'*) passed by the Asst. Commissioner, CGST Div-III, Gokuldham Arcade, Ullariya, Sarkhej- Sanand HW, Ahmedabad North (*hereinafter referred to as 'adjudicating authority'*) passed in respect of M/s Wood Star (India) Pvt. Ltd., Survey No. 258, Vasodara, Ta- Sanand, Dist. Ahmedabad- 382120 (C. Ex. Reg. No. AAAC W3570E M001) (*hereinafter referred to as 'respondent'*)

2. The facts of the case, in brief are that respondent assessee had filed rebate claim of C. Ex. Duty amounting to Rs. 1,61,150/- paid on the goods exported under drawback scheme, vide ARE-1 No. 3/17-18 dated 21.05.2017 under Notification No. 19/2004- CE (NT) dated 06.09.2004 issued u/r 18 of CER, 2002. Respondent had paid duty Rs. 1,35,313/- from PLA, Rs. 21,415/- from BED and Rs. 4,457/- from Special Additional Duty of Customs (SAD). Entire claim of Rs. 1,61,150/- was allowed by the adjudicating authority vide impugned OIO.

3. Being aggrieved with the impugned order, the appellant revenue preferred an appeal on 09.02.2018 [revenue review order No. 18/2017-18 dated 29.01.2018] before the Commissioner Appeals, CGST, GST Bhavan, Ambawadi, Ahmadabad wherein it is contended that as per Notification No. 19/2004- CE (NT) Special Additional Duty of Customs (SAD) is not included in the explanation-I of "duty". Hence benefit of granting rebate of Rs. 4457/- paid from Special Additional Duty of Customs (SAD) can not be extended to the respondent assessee. Further it is argued that erroneously granted rebate is required to be recovered with interest applicable.

4. Copy of appeal memo was sent to respondent assessee to file cross objection if any and to inquire if they want any personal hearing in the matter. No cross objection has been filed. It is informed by the respondent vide their letter dated 22.03.2018 that they do wish to have any personal hearing in the case and the case may be decide ex-parte.

**DISUSSION AND FINDINGS**

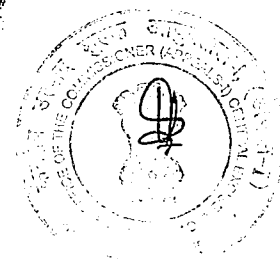
5. As respondent assessee do not wish to avail opportunity of personal hearing, I take up the case to decide it ex-parte on the basis of records available. I have carefully gone through the facts of the case on records, grounds of appeal in the Appeal Memorandum of revenue department.

6. It is the case of revenue department that rebate of duty of Rs. 4457/- paid from Special Additional Duty of Customs (SAD) is erroneously extended to the respondent assessee by the adjudicating authority as Special Additional Duty of Customs (SAD) is not included in the explanation-I of "duty" given in Notification No. 19/2004- CE (NT).

7. Before dwelling on to the dispute, I would like to reproduce the following for ease of reference:

**CENVAT CREDIT RULES, 2004**

*RULE 3. CENVAT credit. — (1) A manufacturer or producer of final products or a [provider of output service] shall be*



allowed to take credit (hereinafter referred to as the CENVAT credit) of-

(i) the duty of excise specified in the First Schedule to the Excise Tariff Act, leviable under the Excise Act :

[Provided that CENVAT credit of such duty of excise shall not be allowed to be taken when paid on any goods -

(a) in respect of which the benefit of an exemption under Notification No. 1/2011-C.E., dated the 1st March, 2011 is availed; or

(b) specified in serial numbers 67 and 128 in respect of which the benefit of an exemption under Notification No. 12/2012-C.E., dated the 17th March, 2012 is availed;]

(ii) to (via)

(vii) the additional duty leviable under section 3 of the Customs Tariff Act, equivalent to the duty of excise specified under clauses (i), (ii), (iii), (iv), (v) [, (vi) and (via)]:

[(viiia) the additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act

[emphasis added]

#### **CENTRAL EXCISE RULES, 2002**

**RULE 18. Rebate of duty.** — Where any goods are exported, the Central Government may, by notification, grant rebate of duty paid on such excisable goods or duty paid on materials used in the manufacture or processing of such goods and the rebate shall be subject to such conditions or limitations, if any, and fulfilment of such procedure, as may be specified in the notification.

[Explanation. - For the purposes of this rule, "export", with its grammatical variations and cognate expressions, means taking goods out of India to a place outside India and includes shipment of goods as provision or stores for use on board a ship proceeding to a foreign port or supplied to a foreign going aircraft.]

#### **NOTIFICATION NO. 19/2004-CE(NT) [relevant extracts]**

*Rebate of duty for exports to countries other than Nepal and Bhutan — Procedure — Notification No. 40/2001-C.E. (N.T.) partially superseded*

*In exercise of the powers conferred by rule 18 of the Central Excise Rules, 2002 and in supersession of the Ministry of*



*Finance, Department of Revenue, notification No. 40/2001-Central Excise (N.T.), dated the 26th June 2001, [G.S.R. 469(E), dated the 26th June, 2001] insofar as it relates to export to the countries other than Nepal and Bhutan, the Central Government hereby directs that there shall be granted rebate of the whole of the duty paid on all excisable goods falling under the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), exported to any country other than Nepal and Bhutan, subject to the conditions, limitations and procedures specified hereinafter,*

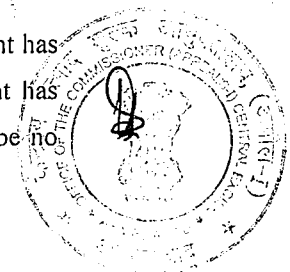
*Explanation I. - "duty" for the purpose of this notification means duties of excise collected under the following enactments, namely :*

- (a) the Central Excise Act, 1944 (1 of 1944);*
- (b) the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957);*
- (c) the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978 (40 of 1978);*
- (d) the National Calamity Contingent duty leviable under section 136 of the Finance Act, 2001 (14 of 2001), as amended by section 169 of the Finance Act, 2003 (32 of 2003) and further amended by section 3 of the Finance Act, 2004 (13 of 2004);*
- (e) special excise duty collected under a Finance Act;*
- (f) additional duty of excise as levied under section 157 of the Finance Act, 2003 (32 of 2003);*
- (g) Education Cess on excisable goods as levied under clause 81 read with clause 83 of the Finance (No. 2) Bill, 2004.*

*[emphasis added]*

The rebate of excise duty on exported goods is granted under rule 18 of the Central Excise Rules, 2002. The procedure has been prescribed in notification No. 19/2004-CE(NT) dated 6.9.2004 in case of exports to countries other than Nepal. Now the notification, *ibid*, the relevant extracts of which is quoted above, clearly states that there shall be granted rebate of the whole of the duty paid on all excisable goods falling under the First Schedule to the Central Excise Tariff Act, 1985, exported to any country other than Nepal and Bhutan, subject to the conditions, limitations and procedures specified therein. The notification further vide its explanation I defines what "duty" would be for the purpose of rebate.

8. On examining the rebate claims in this back drop I find that [a] the appellant has filed the rebate under notification No. 19/2004-CE(NT) dated 6.9.2004; [b] the appellant has exported the goods on payment of duty from their CENVAT account. There appears to be no



dispute as far as other conditions & limitations, laid down in the notification, except that the appellant discharged the duty before exporting the goods by debiting from CENVAT credit, the amount which was lying in the credit on account of 4% SAD. The revenue has contended that the claims could not be sanctioned primarily because the additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act did not find a mention in the explanation I of the notifications.

9. Explanation I [reproduced above], clearly lists the duty on which rebate will be granted. The adjudicating authority has nowhere stated that the rebate claim filed by the appellant is in respect of 4% SAD paid by the appellant. There is no doubt in my mind that the rebate claims are in respect of duties of excise paid under the Central Excise Act, 1944, before export of goods under rebate. This payment of duty of excise under Central Excise Act, 1944, clearly finds mention in (a) under Explanation I [extracts provided supra].

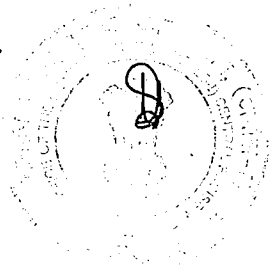
10. Now coming to the second grounds on which rebate was rejected that is utilization of amount standing to the CENVAT credit under 4% SAD towards payment of Central Excise duty. Neither the notification nor the concerned central excise rule, put any bar in so far as utilization of CENVAT credit lying to the credit of 4% SAD is concerned. Though not directly relevant, I have reproduced the relevant extract of Rule 3 of the CENVAT Credit Rules, 2004 to primarily see whether the CENVAT credit availed in respect of duty paid in respect of 4% SAD was eligible as credit to the appellant. The relevant extracts, clearly shows that the availment of CENVAT credit by the appellant was correct. When there is no bar on availment of CENVAT credit in respect of amount paid towards 4% SAD and there is no bar towards utilization of the said CENVAT credit towards payment of duty under the Central Excise Act, 1944, in respect of claim of rebate for exports, the allowing of rebate claim by the adjudicating authority appears to be correct.

11. Now I would like to deal with the contention of the appellant revenue, in so far as reliance on the case laws of Vinati Organics Limited [2014(311) ELT 994(GoI)] and Alpa Laboratories Limited [2014(311) ELT 654 (GoI)] is concerned, I find that in both the cases the rebates were filed under notification No. 21/2004-CE(NT) dated 6.9.2004. The relevant text of the notification *ibid*, is reproduced below of ease of reference:

***NOTIFICATION NO. 21/2004-CE(NT) [relevant extracts]***

*Rebate of duty on excisable goods used in manufacture/ processing of export goods — Procedure — Notification No. 41/2001-C.E. (N.T.) superseded*

*In exercise of the powers conferred by of rule 18 of the Central Excise Rules, 2002 and in supersession of the Ministry of Finance, Department of Revenue, notification No. 41/2001-Central Excise (N.T.), dated the 26th June, 2001 [G.S.R. 470(E) dated the 26th June, 2001], the Central Government hereby, directs that rebate of whole of the duty paid on excisable goods (hereinafter referred to as 'materials') used in the manufacture or processing of export goods shall, on their exportation out of India, to any country except Nepal and Bhutan, be paid subject to the conditions and the procedure specified hereinafter :-*



*Explanation. - "duty" means for the purposes of this notification, duties of excise collected under the following enactment, namely :-*

- (a) *the Central Excise Act, 1944 (1 of 1944);*
- (b) *the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957);*
- (c) *the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978 (40 of 1978);*
- (d) *the National Calamity Contingent duty leviable under section 136 of the Finance Act, 2001 (14 of 2001), as amended by Section 169 of the Finance Act, 2003 (32 of 2003) and further amended by Section 3 of the Finance Act, 2004 (13 of 2004);*
- (e) *special excise duty collected under a Finance Act;*
- (f) *additional duty of excise as levied under section 157 of the Finance Act, 2003 (32 of 2003);*
- (g) *Education Cess on excisable goods as levied under clause 81 read with clause 83 of the Finance (No. 2) Bill, 2004.*

As is evident notification no. 21/2004, grants rebate of whole of the duty paid on excisable goods used in manufacture/processing of export goods. The notification thereafter defines duty under explanation. There is a clear distinction between both the notifications issued under Rule 18 of the Central Excise Rules, 2002. While notification No. 19/2004-CE(NT) dated 6.9.2004 grants rebate on export of excisable goods, notification no. 21/2004, ibid, grants rebate on duty paid on excisable goods used in the manufacture/processing of export goods. Under notification No. 21/2004, no rebate can be claimed on materials used, in respect of 4% SAD, since the additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act, does not find a mention in the list of duties under explanation to the notification. Now to stretch this logic to notification No. 19/2004-CE(NT) dated 6.9.2004, when it clearly speaks of rebate of excise duty on exports of excisable goods on payment of duty under the Central Excise Act, 1944, is not a valid argument. Hence, the reliance of the appellant revenue on the aforementioned two case laws is not tenable since they are not at all relevant to the present dispute.

12. In view of the foregoing, the appeals filed by the appellant revenue, is rejected and the impugned OIO is upheld.

13. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।

13. The appeals filed by the appellant stand disposed off in above terms.

*उमा शंकर*  
(उमा शंकर)

केन्द्रीय कर आयुक्त (अपील्स)

ATTESTED

*R.R. Patel*  
(R.R. PATEL)

SUPERINTENDENT (APPEAL),

CENTRAL TAX, AHMEDABAD





To,

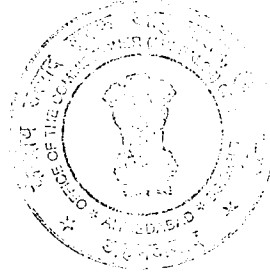
M/s Wood Star (India) Pvt. Ltd.,

Survey No. 258, Vasodara,

Ta- Sanand, Dist. Ahmedabad- 382120

Copy to:

- 1) The Chief Commissioner, Central Tax, Ahmedabad .
- 2) The Commissioner Central Tax, CGST, Ahmedabad North, Customs House, Navrangpura, Ahmedabad.
- 3) The Asst. Commissioner, Central Tax, GST Div-III, Ahmedabad North , Gokuldham Arcade, Sarkhej- Sanand HW ,Village Ullariya, Sanand, Ahmedabad 382110
- 4) The Asst. Commissioner(System), Hq, Ahmedabad North.
- 5) Guard File.
- 6) P.A. File.





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