



सत्यमेव जयते

आयुक्त का कार्यालय, (अपीलस)  
Office of the Commissioner,



केंद्रीय जीएसटी, अहमदाबाद आयुक्तालय  
Central GST, Appeal Commissionerate- Ahmedabad  
जीएसटी भवन, राजस्व मार्ग, अम्बावाड़ी अहमदाबाद ३८००१५.  
CGST Bhavan, Revenue Marg, Ambawadi, Ahmedabad 380015  
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क फाइल संख्या (File No.): **V2(85)178/North/Appeals/ 2018-19 / 10695 to 10500**  
ख अपील आदेश संख्या (Order-In-Appeal No.): **AHM-EXCUS-002-APP-238-18-19**  
दिनांक (Date): **11/03/2019** जारी करने की तारीख (Date of issue): **13/05/2019**  
श्री उमा शंकर, आयुक्त (अपील) द्वारा पारित  
**Passed by Shri Uma Shanker , Commissioner (Appeals)**

ग \_\_\_\_\_ आयुक्त, केंद्रीय उत्पाद शुल्क, (मंडल-IV), अहमदाबाद उत्तर, आयुक्तालय द्वारा जारी  
मूल आदेश सं \_\_\_\_\_ दिनांक \_\_\_\_\_ से सृजित  
Arising out of Order-In-Original No **327/REBATE/2018** Dated: **27/04/2018**  
issued by: **Deputy Commissioner-Central Excise (Div-IV), Ahmedabad North,**

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

**M/s Alfa Technologies 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) केंद्रीय 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, Jeevan 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।





**ORDER-IN-APPEAL**

M/s. Alfa Technologies Pvt Ltd, Changodar, Taluka- Sanand, Ahmed abad (henceforth, "*appellant*") has filed the present appeal against the Order-in-original No.327/REBATE/2018 dated 27.04.2018 (henceforth, "*impugned order*") issued by the Assistant Commissioner, Central GST & Central Excise, Division-IV, Ahmedabad-North (henceforth,-,"*adjudicating authority*").

2. The facts of the case, in brief, are that the appellant filed a rebate claim dated 30.01.2018 for Rs.3,70,711/- under rule 18 of Central Excise Rules,2002 readwith Notification no.19/2004-CE(NT) dated 06.09.2004 in respect of Cenvat duty paid on goods falling under chapter 85 of Central Excise Tariff Act,1985 and cleared for export to SEZ under ARE1 No.001 dated 31.01.2017. Said claim was rejected under impugned order mainly holding that it was not ascertained from copy of RG23A Part-II that excise duty in respect of the claim has been paid and claimant failed to establish that goods cleared from the factory were exported.

3. Being aggrieved with the impugned order the appellant preferred this appeal contesting *inter alia* that rejection of the refund by adjudicating authority without issuance/delivering of show cause notice are in violation of the principle of natural justice. The appellant mentioned under the Statement of Facts that till date they have not received original SCN, OIO however appeal is preferred to avoid further delay.

4. In the Personal hearing held on 03.04.2019 Shri Punit Prajapati, CA reiterated the grounds of appeal and submitted that the O-I-O was never received by them and on request they received O-I-O, Hence, no delay in filing appeal.

5. I find that the appeal has been preferred by the appellant on 05.12.2018 against Order-in-original dated 27.04.2018 original copy of which is not yet received by them (as mentioned under column 4 of Form No.EA-1). It is further mentioned under Statement of Facts that merely photocopy of the Order-In-Original was received by them on **05.07.2018** as an attachment to letter dated 25.06.2018. This facts shows that even after receipt of Order-in-original on 05.07.2018 (though not original copy), the appellant preferred appeal on 05.12.2018 i.e. after six months. Therefore, even considering date of receipt of Order-In-Original by the






appellant on 05.07.2018, the appeal is not filled within the time limit of 60 days as mandated by virtue of Section 35 of the Central Excise Act, 1944. Therefore, the plea of the appellant on the issue of non compliance of the time limit is not genuine one. The appeal is accordingly rejected for non compliance of time limit mandated under Section 35 of the Central Excise Act, 1944.

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

The appeal filed by the appellant stands disposed of in above terms.

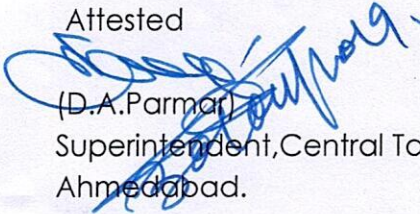


(उमा शंकर)

प्रधान आयुक्त (अपील्स)

Date:

Attested

  
(D.A.Parmar)

Superintendent, Central Tax (Appeals)  
Ahmedabad.



By R.P.A.D.

To,

M/s. Alfa Technologies Pvt Ltd,

22/A, Swastik Industrial Estate,

Sari, Changodar, Taluka-Sanand, Ahmedabad-382220.

Copy to:

1. The Chief Commissioner of Central Tax, Ahmedabad Zone.
2. The Commissioner, SGST, Government of Gujarat, Rajya Kar Bhavan, Ashram Road, Ahmedabad.
3. The Commissioner of Central Tax, Ahmedabad-North.
4. The Additional Commissioner, Central Tax (System), Ahmedabad-North
5. The Asstt./Deputy Commissioner, Central Tax, Division-IV, Ahd-North.
- ✓ 6. Guard File
7. P.A.



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