



सत्यमेव जयते

## केंद्रीय कर आयुक्त (अपील)

O/O THE COMMISSIONER (APPEALS), CENTRAL TAX,  
केंद्रीय उत्पाद शुल्क भवन, 7<sup>th</sup> Floor, Central Excise Building,  
सातवीं मंजिल, पोलिटेकनिक के पास, Near Polytechnic,  
आम्बावाडी, अहमदाबाद-380015  
Ambavadi, Ahmedabad-380015



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रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : V2(76)/38/Ahd-I/2017-18 / 2895-2888

ख अपील आदेश संख्या Order-In-Appeal Nos. AHM-EXCUS-001-APP-13-2017-18  
दिनांक 29.06.2017 जारी करने की तारीख Date of Issue 30/06/2017

श्री उमा शंकर आयुक्त (अपील-I) द्वारा पारित  
Passed by Shri. Uma Shanker, Commissioner (Appeal-I)

Superintendent Commissioner, Div-V केन्द्रीय उत्पाद शुल्क, Ahmedabad-I द्वारा जारी मूल आदेश सं  
Letter dated 24.05.2017 दिनांक: 24.05.2017, से सृजित

Arising out of Order-in-Original No. Letter dated 24.05.2017 दिनांक: 24.05.2017 issued by  
Superintendent Commissioner, Div-V Central Excise, Ahmedabad-I

घ अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent

**M/s Tradent Industries Pvt Ltd.  
Ahmedabad**

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 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) केन्द्रीय उत्पादन शुल्क अधिनियम, 1994 की धारा अतत नीचे बताए गए मामलों के बारे में पूर्वोक्त धारा को उप-धारा के प्रथम परन्तुक 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।

(i) A revision application lies to the Under Secretary, to the Govt. of India, Revision Application Unit Ministry of Finance, Department of Revenue, 4<sup>th</sup> Floor, Jeevan Deep Building, Parliament Street, New Delhi - 110 001 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 ऐसी हानि कारखाने से किसी भण्डागार या अन्य कारखाने में या किसी भण्डागार से दूसरे भण्डागार में माल ले जाते हुए मार्ग में, या किसी भण्डागार या भण्डार में चाहे वह किसी कारखाने में या किसी भण्डागार में हो माल की प्रक्रिया के दौरान हुई हो।

(ii) 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.

(b) In case of rebate of duty of excise on goods exported to any country or territory outside India of on excisable material used in the manufacture of the goods which are exported to any country or territory outside India.

(ग) यदि शुल्क का भुगतान किए बिना भारत के बाहर (नेपाल या भूटान को) निर्यात किया गया माल हो।

*Unwed file*



... 2 ...

(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 मामलों में जो भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित है।

(b) In case of rebate of duty of excise on goods exported to any country or territory outside India of on excisable material used in the manufacture of the goods which are exported to any country or territory outside India.

(ग) यदि शुल्क का भुगतान किए बिना भारत के बाहर (नेपाल या भूटान को) निर्यात किया गया माल हो।

(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 चालान 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.



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 पढी 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 Appellant 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 अपीलो 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 तुलना 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, provided that the pre-deposit amount shall not exceed Rs.10 Crores. 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 6 of the Cenvat Credit Rules.

इस 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

M/s. Tradant Industries Private Limited, C-1/371, GIDC Estate, Road No. 37, Opp. Naptune Textile, Odhav, Ahmedabad- 382 415. [for short - 'appellant'] has filed this appeal against letter no. AR III/ECC/Tradant/2016-17 dated 24.5.2017, issued by Superintendent, AR III, Division V, Central Excise, Ahmedabad-I Commissionerate.

2. Vide the aforementioned letter dated 24.5.2017 the Superintendent, informed the appellant that since his registration was revoked by the Assistant Commissioner, Central Excise, Division V, Ahmedabad-I Commissionerate, the ARE-I nos. 1/16-17 dated 29.1.2017 and 2/16-17 dated 11.3.2017, were returned with the said letter. The appellant aggrieved by the revocation of his Central Excise registration, [informed vide the aforementioned letter], has filed this appeal making the following prayers :

(A) order of revocation communicated vide letter dated 24.5.2017 addressed by the Superintendent Division V, Ahmedabad may be set aside with consequential benefits:

(B) any other further relief as may be deemed fit in the facts and circumstance of the case may also be granted.

3. The appeal was received in the section on 16.5.2017, raising the following contentions:

[a] that the revocation of the registration certificate as well as the action of returning the ARE-Is without processing the claim is clearly bad in law:

[b] that the action is in gross violation of the principles of natural justice as no hearing was granted to the appellant before taking such a harsh and unreasonable action:

[c] that all the queries raised by the department from time to time were addressed by the appellant with proper explanation/clarification as well as documentary evidence:

[d] that from time to time, the department had sought to cancel/ revoke the registration certificate on entirely different grounds and reasons:

[e] that the proper officer should not have decided the matter ex parte while revoking the registration certificate; that the order passed is in blatant violation of the principles of natural justice;

[f] that since the revocation was proposed under notification No. 7/2015-CE(NT) dated 1.3.2015, it was incumbent upon the authority to establish a case falling under the aforesaid notification, to cancel the registration:

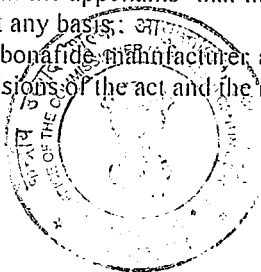
[g] that the action is entirely based on presumption and assumption: that the manufacturing activity at their premises was initiated on 14.1.2017: that it was further clarified that the production activity had been undertaken not only on the basis of inputs procured on 24<sup>th</sup>, 25<sup>th</sup>, 26<sup>th</sup> and 27<sup>th</sup> January, but also on inputs procured prior to registration: that this fact was established by the appellant on the basis of records maintained in the factory including invoices of the seller, under which the goods were procured by the appellant:

[h] that the allegation of the department that only 500 kgs of aluminium circles were produced in the factory as allegedly stated by the supervisor of the factory is also factually incorrect as no question were ever put to the supervisor and not statement/panchnama was recorded, to substantiate the allegation;

[i] that from the letter dated 8.2.2017 of the department, it is evident that the officers during the course of physical verification, had only examined the machineries installed at the premises; that the only objection was regarding non installation of cold rolling mill, which stood clarified by virtue of chartered engineer's certificate: that the electricity bill was also submitted which clearly establishes that substantial production activity had been undertaken by the appellant at their premises;

[j] that during physical verification, no discrepancy was found with regard to the daily stock register of goods lying with the appellants: that this further shows that the allegation made in the present case is without any basis:

[k] that the appellant is a bonafide manufacturer and all activity undertaken are in complete consonance with the provisions of the act and the rules:



*[Handwritten mark]*

[I] that even the act of non processing of ARE-I is unwarranted: that there is no doubt or dispute that excise duty was paid by the appellant while removing goods from their factory and there is also no dispute or doubt that the goods have been exported by the appellants.

3.1 Subsequently, the appellant vide his letter dated 16.6.2017, [received in this office on 22.6.2017], requested for early hearing citing non adherence to the principles of natural justice and serious prejudice leading to closure of their business. The appellant had also met me personally to explain the situation wherein he stated that because of the revocation of his registration, he was not in a position to migrate to GST. Looking to the gravity of the situation and the facts, personal hearing was fixed on 28.6.2017. Both the appellant and the department i.e. Assistant Commissioner, Central Excise, Division V, were immediately vide letter dated 23.6.2017 informed about the personal hearing slated to be held on 28.6.2017.

4. Ms. Shilpa Dave, Advocate appeared before me on 28.6.2017, on behalf of the appellant. Shri B.A.Patel, Superintendent, AR III, Division V, Central Excise, Ahmedabad-I Commissionerate, appeared on behalf of the department. Ms. Dave, Advocate, briefly raised the following contention:

- [a] that the appeal may be treated against the letter dated 24.5.2017 since it was on that letter that the appellant was made aware of the fact that his registration was revoked;
- [b] that the four contentions stipulated in the notification No. 7/2015-CE(NT) dated 1.3.2015 was not followed;
- [c] that the principles of natural justice was not followed;
- [d] that the appellant's fundamental right was affected.

Shri B.A.Patel, Superintendent, sought one day's time to submit the department's view.

5. Assistant Commissioner, Division V, Central Excise, Ahmedabad-I, vide his letter dated 28.6.2017, stated the following:

- [a] that the appellant had replied to the queries but had failed to reply properly to the queries raised;
- [b] that based on Range Superintendent's letter dated 6.3.2017, it was proposed to revoke the registration in terms of Para 12(2) of notification No. 35/2001-CE(NT) dated 26.6.2001, as amended;
- [c] that regarding non adherence to the principles of natural justice, the appellant was intimated that failure to submit clarification in the matter would lead to the department deciding the matter on merit without any further communication: that the appellant was informed about the deficiency as per para 12(ii) of the notification ibid, number of times: that the entire process of registration is online.

6. I have gone through the facts of the case, the grounds of appeal and the oral averments raised during the course of personal hearing. The primary question to be decided is whether the revocation of the Central Excise registration certificate of the appellant, informed vide letter dated 24.5.2017, is correct and legal.

7. Section 35 of the Central Excise Act, 1944, states that any person aggrieved by any decision or order passed under this act by a Central Excise Officer, lower in rank than a



Principal Commissioner of Central Excise or Commissioner of Central Excise, may appeal to the Commissioner(Appeals), within the prescribed time limit. Since the revocation of registration [which is an order of the Assistant Commissioner], was informed through the letter dated 24.5.2017, I find that the appellant, feeling aggrieved by the said order, was within his right to file this appeal against the said letter.

### Principles of Natural Justice

8. The appellant has vehemently contested that the principles of natural justice was not adhered to. Principles of natural justice constitutes the following:

- Natural Justice recognizes three principles:
- (i) *Nemo debet esse iudex in propria causa* [meaning - nobody shall be a judge in his own cause or in a cause in which he is interested]
  - (ii) *Audi alterem partem*, [meaning - to hear the other side] and finally
  - (iii) Speaking orders or reasoned decisions.

The appellant has stated that no personal hearing was granted. The department's reply has not contested this averment, which leads me to the conclusion that no personal hearing was granted before the proper officer i.e. the Divisional Assistant Commissioner, exercised his power, to revoke the Central Excise registration certificate. The appellant has further stated that no speaking order was issued. This averment also stands unrefuted. Nothing has been produced before me except the letter dated 24.5.2017, which informs the appellant of his registration having been revoked. This letter by no stretch of imagination can be termed as a speaking order. The importance of a speaking order has been laid down by the Hon'ble Supreme Court in numerous judgements, and I quote, the excerpts from one of the judgements, to emphasize my observation of the importance to issue a speaking order, :

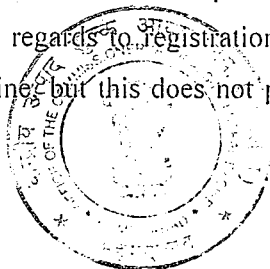
*As the Apex Court in Asstt. Commissioner, Commercial Tax Department v. Shukla & Brothers Bombay - 2010 (254) E.L.T. 6 (S.C.) = 2011 (22) S.T.R. 105 (S.C.) has observed that "Reasons are the soul of orders. Non-recording of reasons could lead to dual infirmities, firstly, it may cause prejudice to the affected party and secondly more particularly, hamper the proper administration of justice. These principles are not only applicable to administrative or executive actions but they apply with equal force and, in fact, with a greater degree of precision to judicial pronouncements".*

*Further it quotes from H.W.R. Wade's book Administrative Law, 7th Edition, as under :-*

*"A right to reasons is therefore, an indispensable part of a sound system of judicial review. Natural justice may provide the best rubric for it, since the giving of reasons is required by the ordinary man's sense of justice..."*

*Reasoned decisions are not only vital for the purposes of showing the citizen that he is receiving justice they are also a valuable discipline for the tribunal itself."*

9. I find that the Assistant Commissioner, in para 6 of his letter dated 28.6.2017, stated that the entire procedure with regards to registration, is online. The contention is correct that the entire process is online but this does not prevent the proper officer from



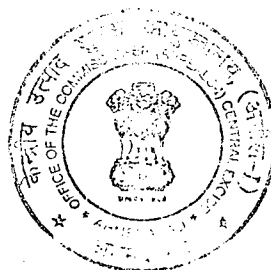
following the basic principles of natural justice while taking such a decision, which impacts the very functioning of the business of the appellant. In Customs, the entire procedure is system based, except in small ports, with no EDI facilities. While finalising provisional assessments, the Courts have emphatically stated that speaking orders need to be issued. Of course, the finalisation is done in the EDI also. The argument, therefore, that since the entire procedure is online, there was no need to issue a speaking order for revocation after giving reasonable opportunity for personal hearing [though not explicitly stated by the Assistant Commissioner in his letter], is not legally correct. I agree with the contention of the appellant, that the Assistant Commissioner, while revoking the registration, did not adhere to the principles of natural justice. Even otherwise the notification under which registration is granted itself, speaks of reasonable opportunity to be provided to the assessee. Hence, the order of revocation of registration, communicated vide letter dated 24.5.2017, is liable to be set aside on this ground itself.

### On merits

10. I would now like to go into the merits of the case. From what is provided along with the appeal papers and what appears to be the correct sequence of events, since it does not stand refuted by the Divisional Assistant Commissioner, who was provided the appeal papers, it appears that:

24.1.2017	The appellant applies for registration
27.1.2017	Registration is granted.
7.2.2017	Physical verification done.
8.2.2017	Department vide letter dated 8.2.2017, informs the Appellant that during the course of their visit it was noticed that <u>cold rolling mill</u> which is a pre requisite for manufacturing the goods listed in the Form A-1, has not been installed.
15.2.2017	Department sends a reminder seeking clarification on the letter dated 8.2.2017
20.2.2017	Appellant encloses the copy of chartered engineers certificate dated 18.2.2017, copies of drawing, photos and certain other details.
10.4.2017	Department again writes to the appellant acknowledging receipt of their letter dated 20.2.2017. The department states that copy of electricity bill is not provided, further raising doubts about their production and clearances. The letter in para 7 states that the range superintendent has proposed that the registration granted be revoked as prima facie it appears that the appellant is indulging in some unlawful activities.
17.4.2017	Appellant again gives clarification with regards to production and clearances, with a further request to process the ARE-Is.
27.4.2017	Department again questions the production, further informing that during the physical verification, the supervisor had informed that only 500 kgs of production of aluminium circles had been carried out in the factory.
11.5.2017	The appellant again clarifies regarding production and further states that the goods have been exported on payment of duty for which rebate has been claimed.
24.5.2017	Department vide this letter returns the ARE-Is and also informs that the Assistant Commissioner has revoked the registration.

11. Before moving any further, Central Excise registration, is governed by notification No. 7/2015-Central Excise(NT) dated 1.3.2015 which amended notification No. 35/2001-CE(NT), the relevant extracts of which are as follows:



“(3) Online filing of application : Application for registration or de-registration or amendment of the registration application shall be filed only online on the website www.aces.gov.in, in the forms provided in the website.

(6) Registration Number and Certificate : Pending *post facto* verification of premises and documents by the authorized Officers, registration application shall be approved by the Deputy Commissioner or Assistant Commissioner within two days of the receipt of duly completed online application form. A Registration Certificate containing registration number shall be issued online and a printed copy of the Registration Certificate which was issued online through the website www.aces.gov.in shall be adequate proof of registration and the signature of the issuing authority is not required on the said Registration Certificate.

(8) Physical verification : (i) The authorized officer shall verify the premises physically within seven days from the date of receipt of application through online. Where errors are noticed during the verification process or any clarification is required, the authorized Officer shall immediately intimate the same to the assessee for rectification of the error within fifteen days of the receipt of intimation failing which the registration shall stand cancelled. The assessee shall be given a reasonable opportunity to represent his case against the proposed cancellation, and if it is found that the reasons given by the assessee are reasonable, the authorized Officer shall not cancel the registration to the premises.

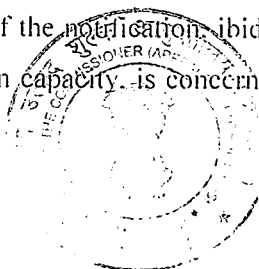
(ii) On the physical verification of the premises, if it is found to be non-existent, the registration shall stand cancelled. The assessee shall be given a reason opportunity to represent his case against the proposed cancellation, and if it is found that the reasons given by the assessee are reasonable, the authorized Officer shall not cancel the registration to the premises recording the complete and correct address.

(12) Cancellation of registration : A registration certificate granted under rule 9 may be cancelled after giving a reasonable opportunity to the assessee to represent his case against the proposed cancellation by the Deputy Commissioner or Assistant Commissioner of Central Excise, in any of the following situations, namely :-

- (i) where on verification, the premises proposed to be registered is found to be non-existent;
- (ii) where the assessee does not respond to request for rectification of error noticed during the verification of the premises within fifteen days of intimation;
- (iii) where there is substantial mis-declaration in the application form; and
- (iv) where the factory has closed and there are no dues pending against the assessee.”

These amendments were effective from 1.3.2015.

12. The Assistant Commissioner, in his letter dated 28.6.2017, has informed me that the Range Superintendent's letter dated 6.3.2017 had proposed revocation of registration in terms of para 12(2) of notification No. 35/2001-CE(NT) dated 26.6.2001. On going through 12(2), it is evident that the cancellation of registration can be done in case the appellant does not respond to the request for rectification of error noticed during the verification of the premises within fifteen days of intimation. On going through the five letters produced before me having been written by the department, I find that in none of the letters, has the department pointed out any rectification of error noticed during the verification of the premises. In the first instance a doubt was raised about non installation of *cold rolling machine* by the department which was responded by the appellant by providing a certificate of the chartered engineer. Thereafter, non submission of electricity bill was raised which was provided by the appellant. Subsequently, the doubts were regarding production, which I do not find to be even remotely connected with the 12(ii) above. Even on merits, I do not find that the department has pointed out that any of the four conditions as stipulated in point 12 of the notification, *ibid*, were met. The objection raised in so far as disputing his production capacity, is concerned, cannot be a ground for





revocation of registration certificate, which is a very hash step. Further, in case the department was to dispute the production or clearance figures declared by the appellant, then inquiry was required to be conducted under issuance of show cause notice and adjudication of the case to hold the appellant accountable. However, revocation/cancellation of registration even in case of clandestine removal/production, is not warranted.

13. In view of the foregoing, the appeal stands allowed. The action of the Assistant Commissioner, Central Excise Division V, Ahmedabad-I in revoking the registration certificate is set aside, with consequential reliefs, if any.

14. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।  
14. The appeal filed by the appellant stands disposed of in above terms.

*उमा शंकर*

(उमा शंकर)

केन्द्रीय कर आयुक्त (अपील्स)

Date : .06.2017

Attested

(Vinod Lukose)  
Superintendent,  
Central Tax(Appeals),  
Ahmedabad.

By RPAD.

To,

M/s. Tradant Industries Private Limited.  
C-1/371, GIDC Estate, Road No. 37,  
Opp. Naptune Textile,  
Odhav, Ahmedabad- 382 415

Copy to:-

1. The Chief Commissioner, Central Excise, Ahmedabad Zone .
2. The Principal Commissioner, Central Excise, Ahmedabad-I.
3. The Deputy/Assistant Commissioner, Division V, Ahmedabad-I.
4. The Additional Commissioner, System, Central Excise, Ahmedabad-I.
5. Guard File.
6. P.A.



