
 सत्यमेव जयते	केंद्रीय कर आयुक्त (अपील)	
O/O THE COMMISSIONER (APPEALS), CENTRAL TAX,		
केंद्रीय कर भवन, 7 th Floor, GST Building, Near Polytechnic, सातवीं मंजिल, पोलिटेक्निक के पास, Ambavadi, Ahmedabad-380015		
आम्बावाडी, अहमदाबाद-380015		
☎ : 079-26305065		टेलीफैक्स : 079 - 26305136

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : V2(28)/58/Ahd-I/2017-18
Stay Appl.No. NA/2017-18

ख अपील आदेश संख्या Order-In-Appeal Nos. AHM-EXCUS-001-APP-300-2017-18
दिनांक Date : 30-01-2018 जारी करने की तारीख Date of Issue

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

ग Assistant Commissioner, केन्द्रीय कर, Ahmedabad-South द्वारा जारी मूल आदेश सं MP/2263/AC/2016-17
दिनांक: 29/07/2016, से सृजित

Arising out of Order-in-Original No. MP/2263/AC/2016-17 दिनांक: 29/07/2016 issued by Assistant Commissioner, Central Tax, Ahmedabad-South

घ अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent
M/s. Vardhman Chemicals
Ahmedabad

कोई व्यक्ति इस अपील आदेश से असंतोष अनुभव करता है तो वह इस आदेश के प्रति यथार्थिती 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, 4th 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 :

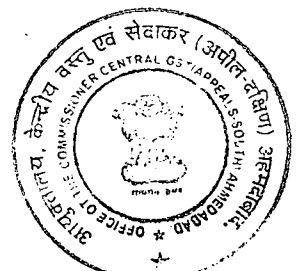
(ii) यदि माल की हानि के मामले में जब ऐसी हानि कारखाने से किसी भण्डागार या अन्य कारखाने में या किसी भण्डागार से दूसरे भण्डागार में माल ले जाते हुए मार्ग में, या किसी भण्डागार या भण्डार में चाहे वह किसी कारखाने में या किसी भण्डागार में हो माल की प्रक्रिया के दौरान हुई हो।

(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।

... 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.

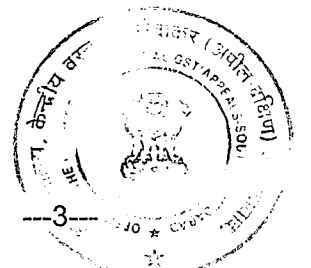
सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण के प्रति अपील:-
Appeal to Custom, Excise, & Service Tax Appellate Tribunal.

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

(a) 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.



ORDER IN APPEAL

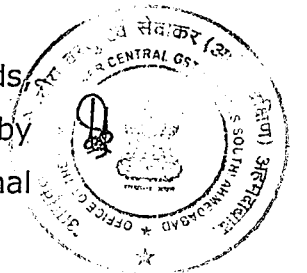
M/s. Vardhman Chemicals, C-1/58, Phase-II, GIDC, Vatva, Ahmedabad (*hereinafter referred to as 'the appellants'*) have filed the present appeal against Order-in-Original number MP/2263/AC/2016-17 dated 29.07.2016 (*hereinafter referred to as 'impugned order'*) passed by the then Assistant Commissioner, Central Excise, Division-III, Ahmedabad-I (*hereinafter referred to as 'adjudicating authority'*).

2. The facts of the case, in brief, are that the appellants had filed a rebate claim for ₹1,89,913/- on 27.05.2016, under Rule 18 of Central Excise Rules, 2002. During scrutiny of the claim and related documents, it was noticed that the appellants had exported on 11.04.2015 whereas; they had filed the said rebate claim on 27.05.2016. Thus, it was concluded that the rebate claim was liable for rejection as per the provisions of Section 11B of the Central Excise Act, 1944 and accordingly a show cause notice dated 27.06.2016 was issued to them which was adjudicated vide the impugned order. The adjudicating authority, vide the impugned order, rejected the entire rebate claim of ₹1,89,913/- on the ground of limitation of time under the provisions of Section 11B of the Central Excise Act, 1944.

3. Being aggrieved with the impugned order the appellants have preferred the present appeal. The appellants have submitted that the impugned order has been passed without appreciating the facts and circumstances of the case. They claimed that as there is no dispute about the export, the substantive benefit cannot be denied to them. The appellants could not file the rebate claim on time due to non receipt of BRC from the concerned banks. They had approached the authorities but no one guided them properly. Thus, it is not the fault of the appellants. In support, they have cited some judgments from higher judicial authorities and requested to set aside the impugned order with consequential benefits.

4. Personal hearing in the matter was granted and held on 24.01.2018. Shri N. K. Oza, Advocate, appeared before me on behalf of the appellants and reiterated the contents of appeal memo.

5. I have carefully gone through the facts of the case on records, grounds of the Appeal Memorandum, the Written Submission filed by the appellants and oral submission made at the time of personal



* hearing. To begin with, I find that there has been a delay occurred in filing the appeal by the appellants. The impugned order was issued on 29.07.2016 and the appeal has been filed before me on 21.07.2017. In view of the above, I find that the claim is delayed by nearly one year (the delay is of 350 days). The Government has provided certain facilities, time to time, for the convenience of the assessee. Knowingly or unknowingly, if one fails to comply with the Service Tax provisions, then there are rules to facilitate the assessee under certain terms and conditions. Assessee, if not satisfied with the demand, may prefer appeal to the higher authorities [in this case, the Commissioner (Appeals)] **within 2 months** from the date of receipt of order from such adjudicating authority. The Commissioner (Appeals) **may** allow a further period of only **1 month**, if sufficient cause for late filing of appeal is shown and proved to him. In the present case, the appellants seem to be a persistent defaulter as they have late filed the rebate claim before the adjudicating authority and now in appeal stage too, the case is affected with the provisions of time bar. Mere accusing the authorities of not offering proper guideline and the banks not issuing BRC timely, they are simply trying to shift the blame on somebody else's shoulders. Thus, in view of the above facts, the appeal filed by the appellants is time barred and hence, I reject the appeal on the ground of limitation itself.

6. Accordingly, the appeal filed by the appellants is rejected being time barred.

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

7. The appeal filed by the appellants stands disposed off in above terms.

उमा शंकर

(उमा शंकर)

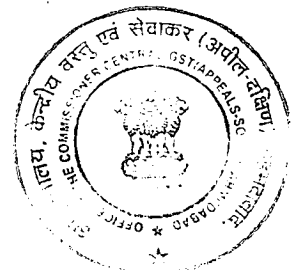
आयुक्त (अपील्स)

CENTRAL TAX, AHMEDABAD.

ATTESTED

S. DUTTA
(S. DUTTA) 06/07/18

SUPERINTENDENT (APPEALS),
CENTRAL TAX, AHMEDABAD.



To,
M/s. Vardhman Chemicals,
C-1/58, Phase-II, GIDC, Vatva,
Ahmedabad-382 445.

Copy to:

- 1) The Chief Commissioner, Central Tax, Ahmedabad.
- 2) The Commissioner, Central Tax, Ahmedabad (South).
- 3) The Dy./Asst. Commissioner, CGST, Division-II (Vatva-I), Ahmedabad (South).
- 4) The Asst. Commissioner (System), Central Tax, Hq, Ahmedabad (South).
- 5) Guard File.
- 6) P. A. File.

