



कार्यालय मुख्य आयुक्त
Office of the Chief Commissioner
सीजीएसटी एवं केन्द्रीय उत्पाद शुल्क (जयपुर परिक्षेत्र), जयपुर
CGST & Central Excise (Jaipur Zone), Jaipur

F.No. GCCO/RTI/APP/2287/2023-LEGAL

Dated .11.2023

To

Sh. Subir Kumar Chakraborty,
 Electrosteel Castings Limited,
 G.K. Tower,
 19, Camac Street, Kolkata
 Pin code: 700017

Sir,

Subject: - Online RTI application bearing registration No. GSTJP/R/E/23/00202/1 dated 26.10.2023, filed by Sh. Subir Kumar Chakraborty, Electrosteel Castings Limited, G.K. Tower, 19, Camac Street, Kolkata- 700017 - reg.

Please refer to your RTI application Registration No. GSTJP/R/E/23/00202/1 dated 26.10.2023 for providing information under RTI Act, 2005.

The information sought by you in your RTI application dated 26.10.2023 does not pertain to Office of the Chief Commissioner of CGST & CX, Jaipur Zone, Jaipur.

If you are not satisfied with the above reply, you may prefer an appeal against the reply within 30 days of receipt of this reply to The Appellate Authority and Additional Commissioner, Office of the Chief Commissioner, CGST & Central Excise (JZ) Jaipur, New Central Revenue Building, Statue Circle, C-Scheme, Jaipur-302005. _

Yours sincerely,

Signed by
 Anupama Saksena
 Date: 22-11-2023 10:23:53
 (Anupama Saksena)
 CPIO & Assistant Commissioner

Copy to:-

1. Superintendent (Computer), CGST & Central Excise, Jaipur to upload on Zonal website.

RTI REQUEST DETAILS (आरटीआई अनुरोध विवरण)

| | | | |
|---|--|---|--------------------------|
| Registration Number (पंजीकरण संख्या) : | GSTJP/R/E/23/00202/1 | Date of Receipt (प्राप्ति की तारीख) : | 26/10/2023 |
| Type of Receipt (रसीद का प्रकार) : | Online Receipt | Language of Request (अनुरोध की भाषा) : | English |
| Name (नाम) : | SUBIR KUMAR CHAKRABORTY | Gender (लिंग) : | Male |
| Address (पता) : | ELECTROSTEELCASTINGS LIMITED, G.K.TOWER, 19, CAMAC STREET, KOLKATA, Pin:700017 | | |
| State (राज्य) : | West Bengal | Country (देश) : | India |
| Phone Number (फोन नंबर) : | +91-9163393458 | Mobile Number (मोबाइल नंबर) : | +91-9163393458 |
| Email-ID (ईमेल-आईडी) : | eisec3@electrosteel.com | | |
| Status (स्थिति) (Rural/Urban) : | Urban | Education Status : | Details not provided |
| Is Requester Below Poverty Line ? (क्या आवेदक गरीबी रेखा से नीचे का है?) : | No | Citizenship Status (नागरिकता) : | Indian |
| Amount Paid (राशि का भुगतान) : | 0 (Received by Chief Commissioner, CGST & Central Excise, Jaipur Zone) (original recipient) | Mode of Payment (भुगतान का प्रकार) : | Payment Gateway |
| Does it concern the life or Liberty of a Person? (क्या यह किसी व्यक्ति के जीवन अथवा स्वतंत्रता से संबंधित है?) : | No(Normal) | Request Pertains to (अनुरोध निम्नलिखित संबंधित है) : | Anupama Saksena, CCO, JZ |
| Information Sought (जानकारी मांगी) : | RTI APPLICATION DATED 20.10.2023 ALONG WITH SUPPORTING DOCUMENTS ARE ATTACHED. | | |
| Original RTI Text (मूल आरटीआई पाठ) : | RTI APPLICATION DATED 20.10.2023 ALONG WITH SUPPORTING DOCUMENTS ARE ATTACHED. | | |

ELECTROSTEEL CASTINGS LIMITED

30, B. T. Road, Khardah, P. O. Sukchar, Kolkata 700 115, India
Tel : +91 33-71014300, 71014450 Fax : +91 33-71014501 to 4504
CIN : L27310OR1955PLC000310
Web : www.electrosteelcastings.com



APPLICATION FOR SEEKING INFORMATION UNDER SECTION 6(1) OF THE RIGHT TO INFORMATION ACT, 2005

Date: 13.10.2023

20.10.2023

To

The Respected Central Public Information Officer (CPIO),
OFFICE OF THE CHIEF COMMISSIONER OF CGST & C. EXCISE,
JAIPUR ZONE,
New Central Revenue Building,
Statue Circle, C Scheme,
JAIPUR - 302 005

Dear Sir,

I am a citizen of India with contact details duly submitted herein below.

2. As per the reported case law **[2022-TIOL-767-CESTAT-DEL]** available as a matter of general legal interest in the trade, the Hon'ble CESTAT NEW DELHI while deciding the EXCISE APPEAL NO. 51101 of 2022-SM in the matter of [AMAR PRATAP STEELS - Vs - COMMISSIONER OF CENTRAL EXCISE & CGST, NCRB, STATUE CIRCLE, C-SCHEME, JAIPUR, RAJASTHAN] , has passed the **FINAL ORDER NO. 50696/2022** Dated 02.08.2022 **against revenue** and thus has allowed the appellant-assessee's claimed refund of Pre-deposit with Interest.

In this regard, copy of the said REPORTED judgment Dated: 2nd August, 2022 is **attached** for your ready reference please.

Now, reference to the above judgment, please provide the short information solicited below:

- (a) Whether Department has **ACCEPTED** the above Order dated 2nd August, 2022 pronounced by the Hon'ble CESTAT NEW DELHI and has paid the refund;
- (b) **OR whether** Department has preferred any Appeal against the said Order before any higher forum;
- (c) Please provide copies of the relevant file note-sheets of review action ACCEPTING / NOT ACCEPTING the subject decision of the Hon'ble Tribunal, as the case may be;
- (d) If NOT accepted, please provide present status of Department's appeal against the Hon'ble Tribunal's said judgment.

Follow the Electrosteel Group on



H.O. : 19, Camac Street, Kolkata 700 017
Tel : +91 33-7103 4400, 2283 9990, Fax : +91 33-2289 4340
Regd. Office : Rathod Colony, Rajgangpur, Sundergarh, Odisha 770 017



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CIN : L27310OR1955PLC00031D
Web : www.electrosteelcastings.com



3. To the best of my knowledge and belief, the above information does not relate to section 8 & 9 of the RTI Act, 2005 which are exempted from disclosure.
4. Whether the information sought concern the life and liberty of a person?
NO.
5. Details of fees paid: Fees of Rs. 10/- for the application paid [Payment-Document is attached.]

[It is most respectfully added here being important, that the information solicited here is eligible information in terms of the definition of "information" clearly mandated under Sec. 2(f) of the RTI Act, 2005 stipulating that "information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.]

6. Additional fees for providing photocopies of the information, as would be further required as per law, would be paid immediately on receipt of written direction from the Department in this regard please.

Yours faithfully,

(SUBIR KUMAR CHAKRABORTY)
Electrosteel Castings Limited
G.K. Tower, 19, Camac Street, Kolkata- 700017
Mob:9163393458; emaileisec3@electrosteel.com

ENCLO:

- (i) Fees payment document &
- (ii) Copy of the reported judgment [2022-TIOL-767-CESTAT-DEL] as above.

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2022-TIOL-767-CESTAT-DEL

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
COURT NO. II

Excise Appeal No. 51101 of 2022-SM

Arising out of order-in-appeal No. 31(SM)/CE/JPR/2021, Dated: 16-17.02.2021
Passed by the Commissioner (Appeals), Central Excise & Central Goods and Service Tax, Jaipur

Date of Hearing: 02.08.2022
Date of Decision: 02.08.2022

M/s AMAR PRATAP STEELS PVT LTD
A-161, RIICO INDUSTRIAL AREA
BAGRU EXTENSION, PHASE-II
JAIPUR (RAJASTHAN)-303007.

Vs

COMMISSIONER, CENTRAL EXCISE AND
CENTRAL GOODS AND SERVICE TAX
NCRB, STATUE CIRCLE, C-SCHEME
JAIPUR (RAJASTHAN).

Appellant Rep by: Shri Gaurav Maurya, Adv.

Respondent Rep by: Shri Ishwar Charan, AR

CORAM: Anil Choudhary, Member (J)

CX -

Appellant is a registered manufacturer of M.S. Ingots, TMT Bars - They had availed cenvat credit on Cement, Asbestos Cement sheet, M.S. shape, MS channel, MS joist, MS Round, TMT bar, MS sheet, Beam and Plate - During audit, Revenue objected to taking of such credit, which was taken during period September, 2009 to April, 2010 - Board has issued Circular 984/8/2014-CX wherein it has been clarified that payment made during investigation or audit, prior to date on which appeal is filed, shall be considered as pre-deposit for purpose of appeal to the extent of percentage specified under Section 35F - It is further stipulated that from the date of filing appeal, amount deposited shall be deemed to be date of pre-deposit under Section 35F - Further, para 5 of Circular mentions that when appeal is decided in favour of assessee, he shall be entitled to refund of amount deposited alongwith interest at prescribed rate, as per Section 35FF of the Act - Thus, from the plain reading of Section 35FF of the Act, it is found that there is no application of Section 11B in respect of refund arising, on being successful in appeal - This has also been clarified in aforementioned Circular of Board - Accordingly, impugned order is erroneous and against the provisions of law - Impugned order is set aside - Adjudicating Authority is directed to grant refund of said amount with interest from the date of reversal, till the date of grant of refund: CESTAT

Appeal allowed

FINAL ORDER NO. 50696/2022

Per: Anil Choudhary:

Brief facts of the case are that the appellant is a registered manufacturer of M.S. Ingots, TMT Bars etc. They had availed cenvat credit of Rs.11,53,506/- on Cement, Asbestos Cement sheet, M.S. shape, MS channel, MS joist, MS Round, TMT bar, MS sheet, Beam, Plate etc. In the course of audit, Revenue objected to taking of such credit, which was taken during the period September, 2009 to April, 2010. During the course of investigation/ audit objection, appellant reversed an amount of Rs.6,51,300/- by reversal in the cenvat register Entry No. 331 dated 02.02.2011. As the appellant did not accept the audit objection, show cause notice dated 23.09.2011 was issued with proposal to demand duty amount of Rs.11,53,506/- with proposal to appropriate the said amount of Rs.6,51,300/- alongwith proposal to impose penalty. The show cause notice was adjudicated vide order-in-original dated 31.12.2012 confirming the proposed demand alongwith appropriation as proposed with equal amount of penalty under Rule 15 of Cenvat Credit Rules.

2. Being aggrieved, the appellant preferred appeal before the Commissioner (Appeals) and being unsuccessful, filed appeal before this Tribunal. This Tribunal vide **Final Order No. A/56910/2017-SM (BR) dated 29.09.2017**

set aside the impugned order and allowed the appeal with consequential relief. Thereafter, the appellant applied for refund of this amount of Rs.6,51,300/- vide letter dated 16.10.2019. The refund claim was rejected vide Order-in-original dated 22.01.2020 observing that the claim is barred by limitation under Section 11B of the Act. It was further observed that Section 35F does not mean that the amount deposited during investigation will be pre-deposit for the purpose of refund also. It was also observed that there is nothing on record to show that the amount deposited during investigation was under protest.

3. Being aggrieved, the appellant is before this Tribunal.

4. Heard the parties and perused the records.

5. Having considered the rival contentions, I find that the Board has issued Circular No. **984/8/2014-CX** dated 16.09.2014 wherein it has been clarified in para 3, that payment made during investigation or audit, prior to the date on which appeal is filed, shall be considered as pre-deposit for the purpose of appeal to the extent of the percentage specified under Section 35F (required for the purpose of pre-deposit). It is further stipulated in para 3.2 that from the date of filing appeal, the amount deposited shall be deemed to be the date of pre-deposit under Section 35F.

5.1 Further, para 5 of the Circular mentions that when the appeal is decided in favour of the assessee, he shall be entitled to refund of the amount deposited alongwith the interest at the prescribed rate, as per Section 35FF of the Act.

5.2 In para 5.2 of Circular, further specified, pre-deposit for filing appeal is not payment of duty. Hence, refund of pre-deposit need not be subjected to the process of refund of duty under Section 11B of the Act or Section 27 of the Customs Act, 1962. Thus, in all cases, when the assessee or appellant is successful in appeal, refund with interest should be paid to the appellant/ assessee within fifteen days from the date of seeking refund.

6. Thus, I find that from the plain reading of Section 35FF of the Act, there is no application of Section 11B in respect of refund arising, on being successful in appeal. This has also been clarified in para 5 of the aforementioned Circular of the Board. Accordingly, I find that the impugned order is erroneous and against the provisions of law. In view of my findings and observations as above, I set aside the impugned order and allow the appeal. The Adjudicating Authority is directed to grant the refund of the said amount of Rs.6,51,300/- with interest from the date of reversal (dated 02.02.2011), till the date of grant of refund.

7. In the result, the appeal is allowed.

(Dictated and pronounced in open Court).

(DISCLAIMER)

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