

REGISTERED  
SPEED POST



F.No. 372/25/DBK/2018-RA  
GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(DEPARTMENT OF REVENUE)

14, HUDCO VISHALA BLDG., B WING  
6<sup>th</sup> FLOOR, BHIKAJI CAMA PLACE,  
NEW DELHI-110 066

Date of Issue 06/01/2021

Order No. 01/2021-Cus dated 04-01-2021 of the Government of India passed by Sh. Sandeep Prakash, Principal Commissioner & Additional Secretary to the Government of India under section 129DD of the Custom Act, 1962.

Subject : Revision Application filed under section 129 DD of the Customs Act 1962 against the Order-in-Appeal No. KOL/Cus/Airport)/AA/150/2018 dated 11.01.2018, passed by the Commissioner of Customs (Appeals), Kolkata.

Applicant : M/s Annadih Vincom Pvt. Ltd, Kolkata

Respondent : Commissioner of Customs, Airport & Admn, Kolkata

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**ORDER**

A Revision Application No.372/25/DBK/18-RA dated 19.04.2018 has been filed by M/s Annadih Vincom P. Ltd, Kolkata, (hereinafter referred to as the applicant) against the OrderNo.KOL/Cus/Airport)/AA/150/2018 dated 11.01.2018, issued by the Commissioner of Customs (Appeals), Kolkata. Commissioner (Appeals) vide the above mentioned Order-in-Appeal has rejected the appeal as time barred observing that the applicant failed to produce sufficient cause which prevented them from filing the appeal beyond the stipulated period of sixty days as per Section 128 of the Customs Act, 1962 .

2. Brief facts of the case are that the applicant filed a drawback claim in respect of one Shipping Bill with the jurisdictional Customs authorities. The said claim was sanctioned by the jurisdictional Dy. Commissioner of Customs, Drawback, Custom House, Kolkata. However, on audit scrutiny, it was observed by the department that the applicant had failed to submit the proof to the effect that the export proceeds in respect of Shipping Bill in dispute have been realized in terms of Rule 16A of the Customs, Central Excise duties and Service Tax Drawback Rules, 1995. Accordingly, a demand notice was issued to the applicant to either submit the proof to the effect that the export proceeds had been realized or refund the drawback amount already sanctioned to them. Dy. Commissioner of Customs, Drawback, Kolkata, confirmed the demand of Rs. 1,48,004/- along with interest as the applicant failed to submit the requisite proof. Penalty of Rs. 10,000/- was also imposed on the applicant. Aggrieved, the applicant filed an appeal before the

Commissioner (Appeals) which was rejected as time barred, for delay of 03 days. The instant revision application has been filed mainly on the ground that the condonation of delay is not automatic, but in a deserving case the Commissioner of Customs (Appeals) is empowered to condone the delay. Further, the applicant has also requested for condonation of delay for 02 days in filing the instant revision application.

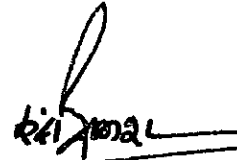
3. Personal hearing in virtual mode was held on 24.12.2020. Sh. Udai Kumar Aggarwal, Managing Director and Sh. Pradeep Kumar Mangal, Consultant, attended the hearing on behalf of the applicant. He stated that the delay in filing the appeal before the Commissioner (Appeals) was because of the fact that a wrong demand draft was prepared towards pre-deposit. They offered to submit the evidence in this regard within 07 days. As regards delay in filing the Revision Application by 2 days, it was submitted that this was due to postal delay. Sh. Agarwal also submitted that they are small entrepreneurs and their claim should not be rejected on technical grounds.

5. The instant RA has been filed with a delay of 02 days on the grounds of postal delay. Delay is condoned.

4. Government has examined the matter. It is observed that the Commissioner (Appeals) has rejected the appeal as time barred as the appeal was ostensibly not filed within the stipulated period of 60 days in terms of Section 128 of the Customs Act, 1962. Applicant has pleaded that the delay of 03 days in filing the appeal before the Commissioner (Appeals) was due to the fact that a wrong Demand Draft was prepared towards pre-deposit. Applicant. vide e-mail dated 31.12.2020, has

submitted a copy of letter dated 30.12.2020 issued by the Branch Manager, Central Bank of India, Park Street Branch, 1, Park Street, Kolkata 700016 which states that a Demand Draft was issued on 08.02.2017, for an amount of Rs. 11,100/- favoring "SBI A/C Commissioner of Customs", at the request of applicant. However, the said draft was cancelled at the request of applicant and a new draft dated 18.02.2017 favoring "RBI A/c Commissioner of Customs" for an amount of Rs. 11,100/- was issued. Thus, the Government observes that the applicant has now submitted the copy of cancelled demand draft and a letter from Central Bank of India, evidencing that the demand draft was cancelled and a new demand draft was prepared thereby substantiating their contention. Since, the applicant has submitted the evidence of sufficient cause for delayed filing of appeal before the Commissioner (Appeals), Government holds that the matter needs to be re-examined in the light of the applicant's claim. Accordingly, the matter is remanded back to Commissioner (Appeals) with the direction to decide the case on merits after verifying the authenticity of letter dated 30.12.2020 issued by the Central Bank of India..

5. The revision application is allowed by way of remand.

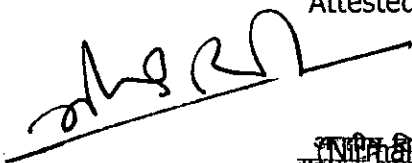


(Sandeep Prakash)

Additional Secretary to the Government of India

M/s Anaadih Vincom Pvt. Ltd.,  
413, Diamond Arcade, 68, Jessore Road,  
Kolkata - 700055.

Attested



ASHISH TIWARI  
सहायक आयुक्त / Assistant Commissioner  
Section Officer (REVISION APPLICATION) शुल्क  
CGST, Central Excise & Customs  
राजस्व विभाग / Department of Revenue  
वित्त मंत्रालय / Ministry of Finance  
भारत सरकार / Government of India  
नई दिल्ली / New Delhi

Order No. 0 / 21-Cus dated 04-01-2021

Copy to:

1. The Commissioner of Customs (Airport & Admn), Air Cargo Complex, NSCBI Airport- Kolkata, 700052.
2. Commissioner of Customs (Appeals), Kolkata, 15/1 Strand Road, Custom House, Kolkata- 700001.
3. Deputy Commissioner of Customs, BRC Cell, Air Cargo Complex, NSCBI Airport- Kolkata, 700052.
4. PS to AS(RA)
5. Guard File.
6. Spare Copy