

REGISTERED
SPEED POST



GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE

Office of the Principal Commissioner RA and
Ex-Officio Additional Secretary to the Government of India
8th Floor, World Trade Centre, Cuffe Parade,
Mumbai- 400 005

F.No.373/148/DBK/15-RA | 107

Date of Issue: 10.01.2022

ORDER NO. 04 /2022-CUS (SZ)/ASRA/MUMBAI DATED 05.01.2022
OF THE GOVERNMENT OF INDIA PASSED BY SHRI SHRAWAN KUMAR,
PRINCIPAL COMMISSIONER & EX-OFFICIO ADDITIONAL SECRETARY TO
THE GOVERNMENT OF INDIA, UNDER SECTION 129DD OF THE
CUSTOMS ACT, 1962.

Applicant : M/s. Aarthi A1 Traders.

Respondent: Pr. Commissioner of Customs, Coimbatore.

Subject : Revision Application filed under Section 129DD of the Customs
Act, 1962 against the Order-in-Appeal No. CMB-CEX-000-APP-026-15 dated
08.01.2015 passed by the Commissioner (Appeals-I), Customs, Central
Excise, and Service Tax, Coimbatore.

ORDER

This Revision Application is filed by the M/s. Aarthi A1 Traders, 9D/14, Ramakrishnapuram, 50 Feet Road, Karur – 639 001 (hereinafter referred to as “the Applicant”) against the Order-in-Appeal No. CMB-CEX-000-APP-026-15 dated 08.01.2015 passed by the Commissioner (Appeals-I), Customs, Central Excise, and Service Tax, Coimbatore.

2. Brief facts of the case are that the Applicant was granted drawback amount of Rs. 1,23,529/- for the exports done by them during the period Mar-Oct'07. As the applicant failed to produce evidence for realization of export proceeds in respect of said exports within the period allowed under the Foreign Exchange Management Act, 1999 including any extension of such period granted by the Reserve Bank India, a show cause notice was issued on 06.11.2008 and after due process of law the adjudicating authority ordered recovery of Rs. 1,23,529/- alongwith appropriate interest under Section 75A(2) of the Customs Act,1962 vide Order-in-Original No.1228/2014-AC-BRC Cell dated 16.06.2014. Aggrieved, the Applicant filed an appeal. However, the Commissioner (Appeals) vide Order-in-Appeal No. CMB-CEX-000-APP-026-15 dated 08.01.2015 rejected the appeal.

3. Hence the Applicant has filed the impugned Revision Application on the following grounds:

It is submitted that the applicants have already realized the said sale proceeds. It may be evidenced from the following letters sent to the department along with BRC.

No.	Department's Letter	Reply Letter
1.	C.No.V111/23/26/2008-1CD-TPR dated 06.11.2008	Letter dated 1.12.2008
2.	C.No.V111/23/26/2008-1CD-TPR dated 16.12.2009.	Letter dated 18.12.2009
3.	PH intimation dated 19.03.2013	Letter dated 14.08.2013

In the light of the above submissions, the applicant prayed to set aside the impugned order or pass any other order which may deem fit in the facts and circumstances of the case.

4. Personal hearing in the case was fixed for 08.10.2021. Shri S. Durairaj, Advocate attended the online hearing on behalf of the Applicant and he reiterated the earlier submissions. He stated that BRC's are available and the same have been submitted alongwith RA. He requested to close the matter.

5. Government has carefully gone through the relevant case records available in case files, oral & written submissions and perused the impugned Orders-in-Original and Order-in-Appeal.

6. Government observes from the impugned Order-in-Original that the rebate claim was rejected on the following ground:

The exporter had failed to comply with the requirements under Section 75 of the Customs Act, 1962 read with the Drawback Rules since he had failed to furnish evidence for receipt of export proceeds in full thereby rendered himself liable for recovery of Drawback with interest under Rule 16A of the Customs, Central Excise Duties & Service Tax Drawback Rules, 1995.

7. Government observes that alongwith their impugned Revision Application, the applicant has submitted following covering letters enclosing 'Bank certificate of export and realization' dated 28.11.2008 addressed to Assistant/Deputy Commissioner, ICD, Tirupur:-

1	Letter dated 01.12.2008	Acknowledged by the Inspector of Customs ICD, Tirupur on 05.12.2008
2	Letter dated 18.12.2009	Acknowledged on 24.12.2009
3	Letter dated 14.08.2013	


8. Government observes from the BRC submitted by the applicant that it is issued by Central Bank of India, Karur branch and the sale proceeds in respect of impugned shipping Bills have been received within the stipulated time as can be seen from the following table:-

Sl. No.	Shipping Bill Number	Date	Amount of Drawback (Rs)	Date of Realization of Export Proceeds
1.	7650	10.04.2007	19,456/-	10.05.2007
2.	5338	06.03.2007	46,569/-	30.03.2007
3.	10945	26.05.2007	2,774/-	26.06.2007
4.	15489	24.07.2007	12,707/-	23.08.2007
5.	16520	07.08.2007	38,475/-	07.09.2007
6.	19671	12.10.2007	3,548/-	13.11.2007
		Total	1,23,529/-	

9. On examination of Rule 16/16A of the Customs, Central Excise Duties & Service Tax Drawback Rules, 1995, the Government finds that during the material period viz. Apr-Oct'07, drawback amount was recoverable only if the foreign proceeds for export of the goods had not been realized within six months from the date of export of the goods. But in the instant matter, it is evident that export sale proceeds against the impugned shipping bills have been received/realized within the stipulated period.

10. In view of the above discussion and findings Government sets aside Orders in Appeal No. CMB-CEX-000-APP-026-15 dated 08.01.2015 passed by the Commissioner (Appeals-I), Customs, Central Excise, and Service Tax, Coimbatore and allows the Revision Application filed by the applicant.

11. The Revision Application is disposed of on the above terms.


5/1/22
(SHRAWAN KUMAR)
Principal Commissioner & Ex-Officio
Additional Secretary to Government of India.

ORDER No. ~~OA~~ /2022-CUS (SZ)/ASRA/Mumbai DATED 05.01.2022

To,
M/s. Aarthi A1 Traders,
9D/14, Ramakrishnapuram,
50 Feet Road, Karur - 639 001.

Copy to:

1. Pr. Commissioner of Customs,
No.6/7, ATD Street, Race Course Road,
Coimbatore - 641 018.
2. Sr. P.S. to AS (RA), Mumbai
3. Guard file
4. Notice Board.