

REGISTERED
SPEED POST



F.No. 375/92/DBK/16-RA
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

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

Date of Issue. 28/8/19

Order No. 06/19-Cus dated 24-08-2019 of the Government of India passed by Mrs. Mallika Arya, 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 passed by the Commissioner of Central Excise & Customs (Appeals), Lucknow

Applicant : M/s Crown International

Respondent : Commissioner of Central Excise, Service Tax & Customs, Allahabad, U.P.

ORDER

M/s Crown International, Kolkata, (hereinafter referred to as the applicant) has filed a revision application No. 375/92/DBK/2016-RA dated 08.08.2016, against the Commissioner (Appeal)'s Order-in-Appeal No. 481-Cus/App/Alld/LKO/2016 dated 08.08.2016, whereby their appeal against Order-in-Original No.II(8)DBK/ICD/BDH/23/2008/11 dated 22.05.2014, passed by the Assistant Commissioner of Customs, Inland Container Depot, Bhadoi, was rejected. The Assistant Commissioner, vide his above mentioned order, had rejected the interest claim of the applicant in terms of Section 75 A of the Customs Act, 1962 on the amount of drawback which was sanctioned earlier after delay.

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2. Revision Application has been filed by the applicant mainly on the ground that the Commissioner (Appeals) has rejected the interest claim of the applicant on delayed payment of drawback. The applicant has mentioned that they had filed all the drawback claims on 09.04.2012 and the same were sanctioned on 21.11.2012. Therefore, interest is payable to them after one month from the date of filing of drawback claim as is mandated in Section 75A of the Customs Act, 1962.

3. Personal hearing in this case was held on 22.08.2016. Sh. S.S. Arora Advocate, appeared for personal hearing on behalf of the applicant and reiterated the grounds of revision already stated in their application. However, no one from department appeared for personal hearing and no request for any other date of hearing was received. Therefore, the case is being taken up for final disposal.

4. The Government has examined the matter. It is observed that the drawback claim was filed by the applicant on 09.04.2012. As per Rule 13(2) of Customs, Central Excise Duties & Service tax Drawback Rules, 1995, while filing the drawback claim, it should be accompanied by the documents namely Copy of export contract, letter of credit, copy of packing list, copy of ARE-1, insurance certificate and a copy of communication regarding rate of drawback where the drawback claim is for a rate determined under Rule 6 or Rule 7 of these rules. Further as per Rule 13(3) of the above said Rules, if the drawback back is filed without any documents as specified in Rule 13(2), the department shall return the claim with a deficiency memo within 10 days from the date of filing of such claim. It is on record that no deficiency memo was issued by the respondent within 10 days from the date of filing of the drawback claim. The letter dated 03.05.2012 purported to have been issued by the respondent is after a lapse of 10 days from the date of filing the drawback claim. The letter was issued to the applicant with a direction to submit the copy of Registration Cum Membership Certificate which is not an essential documents to file the drawback claim in terms of Rule 13(2). The drawback was eventually sanctioned to the applicant on 11.12.2012 i.e. after a delay of seven months.

5. Section 75A of the Customs Act, 1962 clearly envisages that the interest is payable in case the drawback is not paid within a period of one month from the date of filing the drawback claim. Whereas in the instant case Drawback claims were undeniably filed 09.04.2012. But the same were paid only on 11.12.2012.

6. The Government is of the view that since all requisite documents were made available by the applicant on 09.04.2012, the drawback should have been treated as filed on 09.04.2012. Therefore, interest will be payable only by taking this date as filing date of drawback claim under Section 75A of Customs Act, 1962. Since the applicant was in no way responsible for causing any delay in processing of the drawback claim by the Customs authorities and the fact that no deficiency memo was issued to them, I hold that the interest is liable to be paid on account of delayed payment of drawback under Section 75A of the Customs Act, 1962.

7. Accordingly, the revision application filed by the applicant is allowed.

Mallika Arya
(Mallika Arya)

Additional Secretary to the Government of India

M/s Crown International
Lakri Fazalpur,
Muradabad,
Uttar Pradesh 244001

ATTESTED

(Nirmala Devi)
SECTION OFFICER (REVISION APPLICATION)

Order No. 06/19-Cus dated 24-08-2019

Copy to:

1. Commissioner of Central Excise, Customs & Service tax, Allahabad, 38, M.G. Marg, Civil Lines, Allahabad -221001
2. The Commissioner of Customs & Central Excise (Appeals), Allahabad, 38, M.G. Marg, Civil Lines, Allahabad -221001
3. The Assistant Commissioner of Customs, Central Excise, & Service Tax, Division-I(in charge ICD, Bhadohi), Allahabad, 38, M.G. Marg, Civil Lines, Allahabad -221001
4. Sh. S.S. Arora, Advocate,, B-1/71, Safdarjang Enclave, New Delhi 110029
5. PS to AS(RA)
6. Guard File.
7. Spare Copy

Issued
28/8/19