

REGISTERED
SPEED POST



F.No. 375/12/DBK/2015-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 5/1/18.

Order No. 09/2018 dated 4.1.18 of the Government of India passed by Shri R.P.Sharma, 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. CC(A)Cus/776/2014 dated 18.12.2014 passed by the Commissioner of Customs (Appeals), New Delhi.

Applicant : M/s. Salora International Ltd.

Respondent : Commissioner of Customs, ICD, PATPARGANJ, New Delhi

ORDER

A Revision Application No. 375/12/DBK/2014-RA dated 01.04.2015 has been filed by M/s. Salora International Ltd. (hereinafter referred to as applicant) against the order No. CC(A)Cus/776/2014 dated 18.12.2014, passed by Commissioner (Appeals) New Delhi.

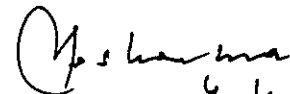
2. Brief fact of the case are that the applicant had imported storage unit MP3 player and paid customs duty on these goods. The applicant re-exported a part of these goods and filed drawback claim under section 74 of the Customs Act, 1962 read with Re-export of Imported Goods (Drawback of Customs duties) Rules, 1995. The said drawback claim was duly sanctioned by the jurisdictional Dy. Commissioner of Customs (Drawback). Later, on an audit objection, the department issued a Show Cause Notice to the applicant that the amount of drawback was paid erroneously as the applicant took nine months to reply to the deficiency memo issued by the department when it was mandatory to reply within 30 days of the issuance of deficiency memo under the said Rules, 1995. The jurisdictional Dy. Commissioner confirmed the demand and it is upheld by the Commissioner (Appeals) also vide his above mentioned order. Now, the applicant, vide the above mentioned revision application, has challenged the order of Commissioner (Appeals) on the ground that the demand confirmed is against the provisions of Re-export of Imported Goods (Drawback of Customs duties) Rules, 1995.

3. Personal hearing in this case was held on 20.11.2017 and the same was attended by Sh. Kumar Vikram, who reiterated the grounds of revision already pleaded in their revision application.

4. On examination of the revision application and other relevant records, it is noticed by the Government that the claim was filed by the applicant in the month of March, 2006 and jurisdictional officer issued a letter in the month of June, 2006 and reminder in September, 2006 stating that applicant had not submitted the copy of

BRC's, import packing list and bill of lading etc. The applicant replied to the said letter in the month of March, 2007 and subsequently the department sanctioned the drawback claim in the month of July, 2007. Thus the drawback claim and replies of the applicant were fully accepted. Rule 5 (4) (a) of the Re-export of imported goods (Drawback of Customs duties) Rules, 1995 stipulates that any claim which is incomplete in any material particular or is found without the documents specified in sub-rule (2) shall not be accepted for the purpose of Section 75 A and such claim shall be returned to the claimant with the deficiency memo in the form prescribed by the Commissioner of Customs within fifteen days of submission and shall be deemed not to have been filed. But in the instant case, the applicant's drawback claim was never returned in accordance with the above stated rule and instead it was sanctioned after being satisfied about the admissibility of the drawback claim. Accordingly there is no scope for the application of above rule 5(4)(a) & (b) in this case and initiation of recovery proceeding against the applicant has been entirely without any legal basis. Consequently the orders passed by the Dy. Commissioner and the Commissioner (Appeals) are not legally maintainable.

6. Accordingly, the revision application is allowed and the order of the Commissioner (Appeals) is set aside..


4.1.18
(R.P.Sharma)

Additional Secretary to the Government of India

M/s. Salora International Ltd.,
D-13/4, Okhla Industrial Area, Phase-II,
Delhi-110020.

ATTESTED


(Ravi Prakash)
OSD (REVISION APPLICATION)

Order No. 09/18-Cus dated 4-1-2018

Copy to:

1. The Commissioner of Customs, Inland Container Depot, Patparganj, Delhi 110096
2. Commissioner of Customs (Appeals), Delhi, New Customs House, Near IGI Airport, New Delhi 110037
3. Deputy Commissioner, Inland Container Depot, Patparganj, Delhi 110096
4. Mr. Bipin Gar, Advocate, B-1/1289 A Vasant Kunj, New Delhi 110070
5. PS to AS(RA)
6. Guard File.
7. Spare Copy