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GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE)

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F.No. 371/03/DBK/14-RA / 2018

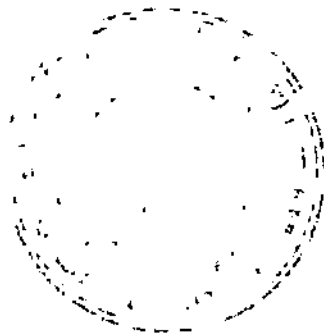
Date of Issue 12/12/2018

ORDER NO. ¹⁰²⁵ /2018-CUS (WZ) / ASRA / MUMBAI/ DATED 30.11.2018
OF THE GOVERNMENT OF INDIA PASSED BY SHRI ASHOK KUMAR
MEHTA , PRINCIPAL COMMISSIONER & EX-OFFICIO ADDITIONAL
SECRETARY TO THE GOVERNMENT OF INDIA, UNDER SECTION
129DD OF THE CUSTOMS ACT, 1962.

Applicant : M/S.Sarna Bags & Accessories

Respondent : Commissioner of Customs, No.1, NCH, Mumbai-I.

Subject : Revision Application filed, under Section 129DD of
the Customs Act, 1962 against the Order-in-
Appeal No.S-49-438/CUS/Mumbai-I/2011/NCH
dated 01.11.2012 passed by the Commissioner of
Customs (Appeals),Mumbai-400001.



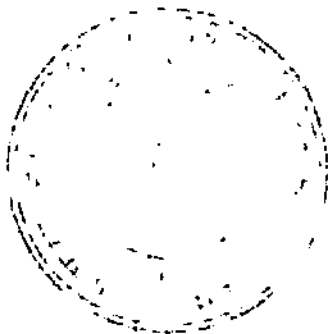
ORDER

The Revision Application is filed by M/S.Sarna Bags & Accessories, having office at Udyog Nagar, Rohtak Road, New Delhi-110041 against the Order in Appeal No.S/49-438/Cus/Mum-I/2011 dated 01.11.2012 passed by Commissioner of Customs, (Appeals),Mumbai-I in respect of Order in Original No.39/2011 Dated 28.04.2011 passed by the Assistant Commissioner, Group-II B,NCH,Mumbai,Zone-I.

2. Brief facts of the case are that M/s. M/S.Sarna Bags & Accessories had re-imported 34 cartons of Hand Bags exported earlier by them and sought duty free clearance of the same under Customs Notification No.158/95 dated 14.11.1995. The applicants while seeking the duty exemption on re-imported goods executed Bond and Bank Guarantee undertaking to comply with the conditions of the Notification. Since the applicants had failed to re-export the imported goods within the stipulated period, the Department issued Show Cause Notice demanding the duty on re-imported goods. While explaining the reasons for not exporting the goods within the time stipulated under the Notification, the applicants sought re-assessment of the goods under Customs Notification 94/96 dated 16.12.1996.The said request was rejected by the Department and confirmed the duty demand of Rs.3,50,000(Rupees Three Lakh Fifty Thousands only) along with interest. Aggrieved by the said Order, the applicants have filed appeal before the Commissioner (Appeals).Since the said appeal has been filed beyond the time limit and the same had been held dismissed on grounds of limitation.

3. The Commissioner (Appeals) Order is contested by the applicants in the instant Revision Application with the following submissions:

- i) by mistake their Customs Broker filed the Bills of Entry under Customs Notification 158/95 instead of the Customs Notification 94/96.



ii) the delay in filing brand rate applications was due to their mistaken filing and perusal of the same with the DGFT authorities.

iii) Since they have already returned the Drawback on re-imported goods, their case merits re-assessment under Customs Notification 94/96.

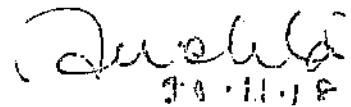
4. Personal Hearing was held on 07.08.2013, 30.10.2013 and 10.04.2013. None appeared from either the applicant's side or Departments side.

5. The Government has taken up the application as to examine its maintainability. The Government has carefully gone through the relevant case records, the impugned Order-in-Original, Order-in-Appeal and the applicant's submissions in Revision Application.

6. The subject of the matter of the Revision Application is re-assessment of imported goods under Customs Notification 94/96 instead 158/95. In either case, the Government finds that the matter does not fall under the purview of Section 129 DD of the Customs Act, 1962 and therefore, the Revision Application is without jurisdiction and the applications are liable to be dismissed.

7. In view of the above discussion and findings, the Government rejects the Revision Application as not maintainable and the applicants are at liberty to approach the appropriate forum.

8. So ordered.



(ASHOK KUMAR MEHTA)
Principal Commissioner & ex-officio

Additional Secretary to Government of India

ORDER No. ¹⁰²⁵ /2018-CUS (WZ) /ASRA/MUMBAI DATED 30.11.2018



To,
M/S.Sarna Bags & Accessories,
G-7, Udyog Nagar,
Rohtak Road, New Delhi-110041.

Copy to:

1. The Commissioner of Customs, NCH, Mumbai-I.
2. The Commissioner of Customs (Appeals), Mumbai-I.
3. Assistant Commissioner of customs, Group-II B, NCH, Mumbai-Zone-I.
4. Sr. P.S. to AS (RA), Mumbai
- ✓ 5. Guard File.
6. Spare Copy.

