

REGISTERED
SPEED POST



F.No. 375/64/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... 3/1/18...

ORDER NO. 11/18-Cus dated 4-0/-2018 OF THE GOVERNMENT OF INDIA, PASSED BY SHRI R. P. SHARMA, ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA, UNDER SECTION 129DD OF THE CUSTOMS ACT, 1962.

SUBJECT : Revision Application filed, under section 129DD of Customs Act, 1962 against the Order-in-Appeal No. CC(A)Cus/D-II/ICD/1039/2015 dated 23.09.2015 passed by the Commissioner of Customs (Appeals), NCH, New Delhi .

APPLICANT : M/s. G & A, International

RESPONDENT : Commissioner of Customs, NCH, New Delhi

ORDER

A Revision Application No. 375/64/DBK/2015-RA dated 21.12.2015 has been filed by applicant M/s. G & A International, 35A Govind Lok, 61, Shivaji Road, Meerut, (herein after referred to as the applicant) against Commissioner (Appeal)'s Order-in-Appeal CC(A)Cus/D-II/ICD/1039/2015 dated 23.09.2015, passed by the Commissioner of Customs (Appeals), NCH, New Delhi, rejecting the applicant's appeal against Order-in-Original No. 420/2014 dated 14.10.2014, passed by the Deputy Commissioner of Customs, ICD, Tuglakabad, New Delhi.

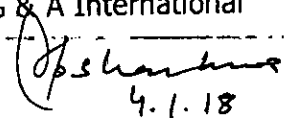
2. The Brief facts leading to the filing of the Revision Application are that the applicant had exported Sports Goods vide Shipping Bill No. 2038246 dated 25.10.2010 and filed a drawback claim for Rs. 1,64,740/-. But it was rejected. Subsequently the applicant filed a Supplementary Drawback claim on 23.09.2013 under Rule 15 of the Customs, Central Excises & Service Tax Drawback Rules, 1995 for Rs. 1,64,740/- which was also rejected by the Deputy Commissioner vide order dated 14.10.2014 being time barred in terms of Rule 15(1) & (2) of Drawback Rules, 1995. The applicant's appeal against the said order of the Deputy Commissioner was also rejected by the Commissioner (Appeal) vide above referred order dated 23.09.2015. Being aggrieved, the applicant has filed the Revision application without specifying any relief in the application.

3. A personal hearing was fixed on 24/11/2017 and Shri Om Narayan, Marketing Executive of the applicant, appeared in the above case for the applicant who reiterated the grounds of revision. From the respondent's side a letter dated 22.11.2017 was received from the Assistant Commissioner (DBK) saying that the claim of the applicant is time barred and order passed by the Commissioner (Appeal) is legally correct & proper.

4. On examination of this case, it is observed that Supplementary claim is governed by the provisions of Rule 15 of the Drawback Rules as per which where the exporter finds that the amount of drawback paid to him is lesser than what he is entitled to, he may prefer a supplementary claim within a period of three months. As per Rule 15 (i) (ii) of Rules, the three months period is counted from the date of

payment/settlement of the original drawback claim by the proper officer. However, the time period of three months can be extended by the Assistant/Deputy Commissioner of Customs for a further period of nine months on being satisfied that the exporter was prevented by sufficient cause from filing his supplementary claim within the aforesaid period of three months. However, in the instant case the applicant has not received any drawback claim and instead their original drawback claim was entirely rejected as mentioned in Commissioner (Appeal)'s order. In fact it appears that the applicant has filed the drawback claim for the second time after rejection of the earlier claim as the second claim is also for the same amount of Rs. 164,740/-. Therefore, on the face of it, it is not even a supplementary claim. Thus, the primary condition for filing the Supplementary Drawback claim which is payment of drawback of duty in first place is not attracted in this case as is envisaged in Rule 15. Further, even when the original drawback claim was rejected by the Deputy Commissioner (DBK) on 02.12.2010, the applicant's Supplementary claim was filed on 23.09.2013 i.e. after 02 years 09 months and 22 days from the date of initial rejection. Thus it has been filed much beyond the specified period of three months. The applicant has also not made out a case that the Assistant/Deputy Commissioner was approached to condone the delay beyond three months. Above all, irrespective of the fact whether they requested the Assistant/Deputy Commissioner or not, the delay involved in filing their Supplementary claim is more than two years for which even the Assistant/Deputy Commissioner is not competent authority to condone. Therefore, the Government finds that the original authority and appellate authority have correctly rejected the applicant's claim.

5. In view of the above discussion, no deficiency is found in the order of the Commissioner (Appeal) and Revision Application filed by the M/s G & A International is rejected.


4.1.18

(R. P. SHARMA)

ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA

M/s G&A International,
35A Govind Lok,
61, Shivaji Road,
Meerut

ORDER NO. 11/18-Cus dated 4-01-2018

Copy to:-

1. The Commissioner of Customs, (Export), Inland Container Depot, ICD, Tughlakabad New Delhi 110 020.
2. The Commissioner, Customs (Appeals), NCH, IGI Airport, Terminal - 3, New Delhi.
3. The Deputy Commissioner of Customs, ICD, Tughlakabad, New Delhi.
4. PS to AS(RA)
5. Guard File
6. Spare Copy

ATTESTED

Ros
53/10/18
(Ravi Prakash)
OSD (RA)