

REGISTERED
SPEED POST



GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
8th Floor, World Trade Centre,
Centre - I, Cuffe Parade,
Mumbai-400 005

F.No. 373/24/B/15-RA / 4702

Date of Issue : 02.09.2021

ORDER NO. ¹⁹/2021-Cus (SZ) / ASRA / MUMBAI/ DATED 25.08.2021 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 : Shri B. S. Venkatesh

Respondent : Commissioner of Customs, Vishakapatnam.

Subject : Revision Applications filed, under Section 129DD of the Customs Act, 1962 against Order-in-Appeal C. Cus No. 142/2014 dated 30.10.2014 passed by the Commissioner of Customs (Appeals), Vishakapatnam.

ORDER

This revision application has been filed by Shri B. S. Venkatesh (herein after referred to as the Applicant) against the Order in appeal C. Cus No. 142/2014 dated 30.10.2014 passed by the Commissioner of Customs (Appeals), Vishakapatnam.

2. The issue briefly is, on receipt of an specific intelligence that M/s Forever Trading Co., Vishakapatnam was exporting Urea along with Ammonium Sulphate by misdeclaring the entire consignment as Ammonium Sulphate. The Shipping Bills of the export consignment were taken over and an investigation was initiated. As per ITC (HS), 2012 Schedule 2 of the Export policy, export of Urea (CTH 31021000) is restricted and is only permitted under Licence and M/s. Forever Trading Company did not have the Licence to export. Accordingly investigations were conducted and after due process of the law the original adjudicating authority vide its order (original) no. 11/2013 dated 21.06.2013 the impugned urea was absolutely confiscated. The Ammonium Sulphate was held liable for confiscation but was allowed redemption under section 125(1) of the Customs Act, 1962. Penalties were imposed under section 114(i) and 114AA on the Applicant and the other persons involved in the alleged export.

3. Aggrieved by this order the applicant filed an appeal with the Commissioner of Customs (Appeals), the Commissioner (Appeals) vide its Order-in-Appeal No. 142/2014 dated 30.10.2014 dismissed the appeal of the Applicant.

4. Aggrieved with the above orders the Applicant, has filed this revision application for setting aside the orders of the lower authorities and release the confiscated Urea and set aside or reduce the penalties imposed.

5. The Government has examined the matter and it is observed that as per first proviso to Section 129A read with Section 129DD of Customs Act, 1962, a revision application can be filed before the Government against the order-in-appeal if it relates to the issue of baggage, drawback of duty and short landing of the goods. But no such issue is involved in the above mentioned order-in-appeals and the dispute in the case involves misdeclaration and unauthorized export of Urea along with Ammonium Sulphate by misdeclaring the entire consignment as Ammonium Sulphate. Therefore, the Government does not have jurisdiction to deal with this Revision Application.

6. In view of above discussions, Government is of opinion that the issue involved in this case does not fall within the jurisdiction of this authority and hence, the issue is required to be agitated before the proper legal forum, i.e. Tribunal if the Applicant deems fit to do so. The revision application is thus not maintainable before this authority for want of jurisdiction in terms of Section 129A read with Section 129DD of the Customs Act, 1962.

7. The revision application, thus stands rejected as being non-maintainable for lack of jurisdiction.


25/8/21
(SHRAWAN KUMAR)

Principal Commissioner & ex-officio
Additional Secretary to Government of India

1ORDER No. 197/2021-CUS (WZ) /ASRA/MUMBAI DATED 25.08.2021

To,

1. Shri B.S. Venkatesh @ Babu Reddy, C/o Smt. Kamalamal Palanikumar, No. 10, Sunkurma Street, Chennai - 600 001.
2. The Commissioner of Customs, Vishakapatnam.

Copy to:

3. Sr. P.S. to AS (RA), Mumbai.
4. Guard File. ,
5. Spare Copy