

REGISTERED
SPEED POST



GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE

Office of the Principal Commissioner RA and
Ex-Officio Additional Secretary to the Government of India
8th Floor, World Trade Centre, Cuffe Parade,
Mumbai- 400 005

F.No. 371/20/DBK/2023-RA

/290

Date of Issue: 11.01.2024

ORDER NO. 20 /2024-CUS (WZ)/ASRA/MUMBAI DATED 9.1.2024
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 · M/s Intas Pharmaceuticals Ltd

Respondent: The Pr. Commissioner of Customs, Ahmedabad.

Subject : Revision Applications filed, under Section 129DD of the
Customs Act, 1962, against the Order-in-Appeal No. AHD-
CUSTM-000-APP-537-22-23 dated 28.11.2022 passed by the
Commissioner of Customs(Appeals), Ahmedabad.

ORDER

This Revision Application has been filed by M/s. Intas Pharmaceuticals Ltd. (hereinafter referred to as "the applicant"), against Order-in-Appeals No. AHD-CUSTOM-000-APP-537-22-23 dated 28 11 2022 passed by the Commissioner of Customs(Appeals), Ahmedabad.

2. Brief facts of the case are that the applicant filed 4 shipping bills for export of Pharmaceuticals Drugs & Medicines under claim of duty drawback. The claim of duty drawback was settled through EDI System. The applicant filed supplementary claim of differential drawback amounting to Rs 2,87,506/- vide letter dated 11.10 2019 under Rule - 16 of Customs and Central Excise Duties Drawback Rules, 2007. Show cause notice was issued raising query as to why supplementary claims filed vide letter dated 11.10.2019 should not be rejected as time barred in view of proviso to Rule 16 of the rules. Subsequently, the claims were rejected, being time barred vide OIO dated 11.06.2021. Being aggrieved by the aforesaid order-in-original the applicant filed appeal before Commissioner of Customs (Appeals), Ahmedabad, who vide Order-in-Appeal No AHD-CUSTOM-000-APP-537-22-23 dated 28.11 2022 rejected their appeal.

3. Being aggrieved and dissatisfied with the impugned order in appeal, the applicant had filed this revision Application under Section 129 DD of the Customs Act, 1962 before the Government on the following grounds:

1. The adjudicating authority has considered the case under Rule 16 of the rules, which is not correct;
- ii. Considering the facts of the case, their case is for 'additional differential amount of drawback' and not the 'Supplementary drawback claim',
- iii. Original shipping Bills unfortunately displayed wrong PMV values due to system error, to rectify this error they filed application for amendment of Shipping Bills, which came to be approved by concerned DC and communicated to them vide

letter dated 22.07 2019 Therefore, date of amendment of Shipping bills should be considered as date of filing of drawback claim under Rule-14;

- iv. Their claim has to be considered and sanctioned in terms of Rule - 14 of the Rules, without going into Rule 16 considering the same as - supplementary claim;
- v. Even in case of considering the case under Rule - 16, the date of amendment of Shipping Bill i.e. 22.07.2019, should be considered, accordingly, the drawback claim is filed within prescribed time limit

4. Personal hearing in the case was held on 05.07.2023, the hearing was attended online by Ms Kirti Pandey, DC on behalf of the Respondent and submitted that Commissioner Appeal has taken all relevant factors into account and passed a correct order. She requested to maintain the same. While, Applicant, vide email dated 12.07 2023, requested to waive off the personal hearing and to decide the matter based on their written submissions.

5 Government has carefully gone through the relevant case records available in case files, perused the impugned Order-in-Original, Order-in-Appeal The issue to be decided in the instant case is whether the Applicant has filed the drawback claim within the time limitation period

6. In the present case, the Applicant initially filed the original drawback claim in 2017, and the Department settled it within the same year. However, a supplementary claim for the differential drawback amount was submitted by the Applicant on 11.10.2019 Both the lower authorities rejected their drawback on being time barred. The applicant argued that the shipping bill contained incorrect PMV values due to a system error, which formed the basis for the disbursement of the initial drawback claim. To rectify this discrepancy, an application for the amendment of the shipping bills was submitted. The Department granted approval for the amendment on 22.07 2019 Subsequently, the claim for the differential drawback amount

was filed on 11.10.2019. The applicant contends that their claim is not time-barred, and the date of the amendment should be considered as the filing date under Rule-14/Rule-16 for the differential drawback amount. On the other hand, the department argues that the initial drawback was settled within the stipulated time, and the subsequent filing of the claim is considered a supplementary drawback, barred by the limitations of time. Government notes that this case is not under challenge by the applicant on the department's determined drawback amount. Instead, it stems from a system error leading to an inaccurate market value in the shipping bill. This incorrect market value, in turn, served as the basis for calculating the disbursed drawback amount. Since this is not the fault of the applicant and the department has allowed correction, denying benefits after subsequent correction would render the amendment meaningless. Government observes that Act is not explicit in specifying the time limit for such amendments in shipping bills. Therefore, in absence of the same, it can be implied that once the amendment has been done, denying the drawback benefits in such amended shipping bills would not be proper. Therefore, Government concludes that when the applicant is not at fault, benefits should not be denied to them. Considering the date of amendment in shipping bill as the filing date, the drawback claims are within the time limit.

7. In the light of the detailed discussions hereinbefore, Government sets aside the impugned Order in Appeal No. AHD-CUSTM-000-APP-537-22-23 dated 28.11.2022 and remands the matter back to the Original Authority for deciding the matter afresh on merits.

8. Revision application is disposed off on above terms.

Shrawan
(SHRAWAN KUMAR)

Principal Commissioner & Ex-Officio
Additional Secretary to Government of India

ORDER No 2c/2024-CUS (WZ)/ASRA/Mumbai DATED

9.1.2024

To,

- 1 M/s Intas Pharmaceuticals Ltd , Corporate House, Near Sola Bridge, S G Highway, Thaltej, Ahmedabad-380054
- 2 The Pr. Commissioner of Customs, 1st floor, Customs House, Near All India Radio, Income Tax Circle Navarangpura, Ahmedabad-380009.

Copy to:

- 1 The Commissioner of Customs(Appeals), 7th Floor, Mrudul Tower, B/H Times of India, Ashram Road, Ahmedabad-380009.
2. M/s. Willingdon & Associates Tident, C, Block, 3rd Floor, Opp Geri Compound, Race Course, Vadodara-390007.
3. Sr. P.S to AS (RA), Mumbai
4. Guard file.

