

REGISTERED  
SPEED POST



F.No. 372/33/DBK/2017-RA  
GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(DEPARTMENT OF REVENUE)

14, HUDCO VISHALA BLDG., B WING  
6<sup>th</sup> FLOOR, BHIKAJI CAMA PLACE,  
NEW DELHI-110 066

Date of Issue. 14/10/19

Order No. 23/19-Cus dated 14-10-2019 of the Government of India passed by Mrs. Mallika Arya, 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.KOL/Cus(port)/AA/942/2017 dated 07.09.2017, passed by the Commissioner of Customs (Appeals), Kolkata.

Applicant : M/s Thermax Limited

Respondent : Commissioner of Customs(Port), Kolkata

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**ORDER**

A Revision Application No.372/33/DBK/17-RA dated 07.12.2017 has been filed by M/s Thermax Limited (hereinafter referred to as the applicant) against the Order No.KOL/Cus(port)/AA/942/2017 dated 07.09.2017, issued by the Commissioner of Customs (Appeals), Kolkata. Commissioner (Appeals) vide the impugned Order-in-Appeal has upheld the Order-in-Original No. KOL/CUS/DC/299(DBK)2015 dated 30.03.2015 passed by Dy. Commissioner of Customs, Drawback, Custom House, Kolkata, confirming the recovery of Rs. 4,83,942/- against wrongly sanctioned drawback of duty in terms of Rule 16A of the Customs, Central Excise duties and Service Tax Drawback Rules, 1995.

2. The revision application has been filed mainly on the ground that the applicant had realized the export proceeds against twenty one (21) Shipping Bills. It has also been stated that the applicant did not receive the Show Cause cum Demand Notice No. S34M-134-139/2013 /DBK dated 15.05.2013. Further, they were not given an opportunity to present their case before the Commissioner (Appeals) and their request for another date of personal hearing was not granted by the Commissioner (Appeals).

3. Personal hearing was attended by Sh. Anand Iyer, Head Exim, of M/s Thermax Limited, on 19.09.2019 on behalf of the applicant. He reiterated the submissions already made in their Revision Application. He also gave written submissions dated 24.09.2019 alongwith copies of BRC's in respect of the impugned Shipping Bills. Since, no one appeared for the respondent and no request for any other date of hearing has been made by them, the case is being decided on merits.

4. Government has examined the matter. It is observed that the department's entire case is based on the premise that the applicant did not receive the export sale proceeds against 21 Shipping Bills within specified period of six months and as a result of which drawback of duty sanctioned to them is recoverable from the applicant. The applicant's case is that they had exported the goods against the

twenty one Shipping Bills and they have received the export proceeds well within the stipulated period of six months. They were not given an opportunity to produce the BRC's before the Commissioner (Appeals). The applicant has now produced the photocopies of BRC's dated 08.04.2015, 06.02.2012, 23.07.2011, 20.07.2011, 22.07.2011, 29.07.2011, 25.07.2011, 16.09.2011, 28.03.2012, 27.01.2012, 31.01.2012, 22.01.2013, 22.11.2011 and 20.07.2011 in respect of 21 Shipping Bills in dispute vide their written submissions dated 24.09.2019. The Government observes that the case merits re-examination in the light of the applicant's claim that they had realised the export proceeds in time against the impugned shipping bills and they have the copies of the BRCs. Accordingly the matter is remanded back to jurisdictional Assistant/Dy. Commissioner (DBK) to verify the genuineness of the BRC's and grant consequential relief as deemed fit.

5. Accordingly, the Order-in-Appeal is set aside and revision application is allowed by way of remand.

*Mallika Arya*  
(Mallika Arya)

Additional Secretary to the Government of India

M/s Thermax Limited,  
D-13, MIDC Industrial Area, R.D. Aga Road,  
Chinchwad, Pune-411019,

Order No. 23/19-Cus dated 14-10-2019

Copy to:

1. The Commissioner of Customs (Port), 15/1 Strand Road, Custom House, Kolkata - 700001.
2. Commissioner of Customs (Appeals), Kolkata, 15/1 Strand Road, Custom House, Kolkata- 700001.
3. Deputy Commissioner, (Drawback, Port), 15/1 Strand Road, Custom House, Kolkata - 700001.
4. PS to AS(RA)
5. Guard File.
6. Spare Copy
7. copy

*Nirma Devi*  
14/10/19  
(Nirma Devi)

Section Officer (REVISION APPLICATION)