

REGISTERED
SPEED POST



F.No. 380/165/DBK/2016-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... 12/12/18

Order No. 235/18-Cus dated 10-12-2018 of the Government of India passed by Shri R.P.Sharma, 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/SS/201/2016 dated 15.07.2016, passed by the Commissioner of Customs (Appeals), Kolkata

Applicant : Commissioner of Customs (Port), Kolkata

Respondent : M/s Jupiter Commercial Company

ORDER

A revision application number 380/165/DBK/2016-RA dated 31.10.2016 has been filed by the Commissioner of Customs, Kolkata, (hereinafter referred to as the applicant) against the Commissioner (Appeals)'s Order No. KOL/Cus/PORT/SS/201/2016 dated 15.07.2016 whereby the appeal of the respondent, M/s Jupiter Commercial Company, filed against the Deputy Commissioner's Order-in-Original dated 16.01.2013, has been allowed by way of remand to original adjudicating authority.

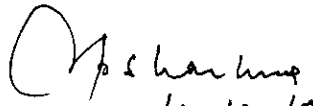
2. The revision application has been filed mainly on the ground that the order of Commissioner (Appeals) remanding the matter to the original authority on the basis of wrong facts placed by the respondent before the Commissioner (Appeals) that the drawback was not sanctioned to them because of technical snag in the system is erroneous.

3. Hearing in this case was fixed on 20.09.2018. But neither the applicant nor the respondent appeared for personal hearing and even no request for another date of hearing was also received either from applicant or from respondent from which it is implicit that the applicant and respondent are not interested in personal hearing.

4. Government has examined the matter and it is observed that there is no dispute regarding the export of conveyor belt, their classification and rate of drawback of duty etc. and it was rejected by the Assistant Commissioner (Drawback) for which the concerned Order-in-Original is not enclosed with the revision application due to which the exact reason for rejection is not ascertainable. While in the Order-in-Appeal the reason for the rejection of drawback claim's stated to be malfunctioning of the EDI system, the applicant in the revision application has claimed that the drawback claim was rejected because the applicant failed to reply some of the queries raised by the Assistant Commissioner (Drawback). However, in the revision application also it is not elaborated as to which type of the query was raised and whether the query was so vital that the drawback of duty could be

rejected even when the goods had already been exported without any dispute with regard to their classification, valuation and rate of drawback etc. and for which all the relevant documents were available with the Custom House. The Government finds that in the face of the above facts, there was no prima facie reason for rejection of the drawback claim just because of non reply of the query as is stated by the applicant or for malfunctioning of the system as is claimed by Commissioner (Appeals) in his order. Considering these facts the Government strongly feels that the benefit like drawback of duty can not be denied just for trifle reason like non reply of query and the matter certainly deserve to be re-examined in the light of the merit of the case by examining all relevant facts and the documents which are within the reach of the department. Hence, the Government does not find any fault in the Order-in-Appeal whereby the matter has been remanded back to original authority for reconsideration of the case and interest of revenue has not been jeopardised in any manner.

6. In view of the discussions above, revision application filed by the revenue is rejected.


10.12.18
(R.P.Sharma)

Additional Secretary to the Government of India

The Commissioner of Customs,
15/1 Strand Road, Custom House,
Kolkata, 700001.

ATTESTED


10.12.18

(NIRMLA DEVI)
SECTION OFFICER (REVISION APPLICATION)

Copy to

Order No. 235/18-Cus dated 10-12-2018

Copy to:

1. M/s Jupiter Commercial Company, 7, Swallow Lane, Kolkata 700001.

2. Commissioner of Customs (Appeals), Kolkata, 15/1 Strand Road, Custom House, Kolkata, 700001.

3. Assistant Commissioner, (Drawback), 15/1 Strand Road, Custom House, Kolkata, 700001.

4. PS to AS(RA)

5. Guard File.

6. Spare Copy