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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

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F.No. 373/128/DBK/2013-RA/5801

Date of Issue: 06/10/2024

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ORDER NO. 237/2021-CUS (SZ)/ASRA/MUMBAI DATED 30.09.2021  
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.

Subject : Revision Application filed, under Section 129DD of the Customs  
Act, 1962 against the Order-in-Appeal No. CMB-CEX-000-  
APP-344-13 dated 28.10.2013 passed by the Commissioner  
of Customs, Central Excise & Service Tax(Appeals), Coimbatore.

Applicant : M/s Ananya Garments

Respondent: Commissioner of Central Excise and Customs, Coimbatore.

**ORDER**

This Revision Application was filed by the M/s Ananya Garments, No.01 and 02, Arunagiri Street, Mugalivakam, and Chennai 600116 (hereinafter referred to as "the Applicant") against the Order-in-Appeal No. CMB-CEX-000-APP-344-13 dated 28-10-2013 passed by the Commissioner of Customs, Central Excise & Service Tax (Appeals), Coimbatore.

2. The issue in brief is that the Applicant was granted drawback amount of Rs. 1,64,951/- (Rupees One lakh Sixty-four Thousand Nine Hundred and fifty-one Only) for the export of Ready-made garments through Inland Container Depot, Concor, Veerapandi, Tirupur, during the period from February, 2009 to February, 2010 under duty drawback scheme in terms of Section 75 of the Customs Act, 1962 read with the Customs and Central Excise Duties and Service Tax Drawback Rules, 1995.

3. The Applicant did not submit the Bank Realization Certificate within the stipulated period in respect of 4 shipping bills out of the 7 shipping bills relating to the drawback amount claimed. As they failed to produce evidence for realization of export proceeds in respect of the said export goods within the period allowed under the Foreign Exchange Management Act, 1999 including any extension of such period granted by the Reserve Bank of India, Show Cause Notice was issued to the Applicant vide SCN No. VIII/48/51/2010-ICD-CONCOR (Sl. No.13/2010) dated 23-08-2010 for Rs.83,392/- asking them as to why the said amount along with the interest should not be recovered and why penalty should not be imposed under Section 117 of Customs Act, 1962.

4. The Deputy Commissioner of Customs, ICD Concor, Tirupur vide Order of Recovery of Drawback (OIO No.8/2012-BRC) ordered recovery of Rs. 83,392/- along with appropriate interest in terms of Rule 16A of the Drawback Rules, 1995. Aggrieved, the Applicant then filed appeal with the Commissioner of Customs, Central Excise & Service Tax (Appeals), Coimbatore, who vide his Order-in-Appeal No. CMB-CEX-000-APP-344-13 dated 28-10-2013 rejected the Applicant's appeal and upheld the Order-in-Original.

5. Being aggrieved, the Applicant then filed the current Revision Application on the following grounds:

- (i) The Applicant had received a total amount of Rs.1,64,951/- as drawback in respect of exports made by them under 7 shipping bills (421,482,577,630,1959,233 and 27 during the period from 20.02.09 to 16.02.2010) and received the sale proceeds of the exports within the prescribed time limit and had informed the same to the customs authorities through the CHA as is being done;
- (ii) The Applicants were issued a SCN Serial No. 13/2010 dated 23-08-2010 demanding repayment of Rs 83,392/- along with the interest for not producing the BRCs for 4 SBs (421, 482, 577, 1959) out of the 7 SBs under which exports were made;
- (iii) The Applicant submitted the BRCs in original in respect of the 4SBs on 4.01.2012 and the acknowledgement by the department on 6.01.2012 as per postal acknowledgement;
- (iv) The Applicant again received a SCN Serial No. 73/2011-12 dated 21-07-2012 demanding repayment of Rs.1,64,951/- along with the interest for not producing the BRCs for the 7 SBs under which exports were made and this included the earlier 4 Shipping Bills;
- (v) On receipt of the same they submitted copy of BRCs of Shipping Bills nos 421, 482, 577, 1959 and Original copy of Shipping Bills Nos 630, 233 and 276 on 5.10.2012 and copy of the acknowledgement received by the department on 6.10.2012;
- (vi) The Applicant then received Order of Recovery of Drawback OIO Serial No.8/2012-ICD-CONCUR-TPR dated 21.07.2012 on 31.08.2013 to pay Rs. 83,392/- along with the interest for non-submission of evidence of realization of export proceeds within the period allowed under FEMA, 1999 including any extension of such period granted by RBI;

- (vii) The order passed is contrary to the facts, devoid of merits unsustainable and violation of natural justice and hence needs to be set aside;
- (viii) These facts were brought to the notice of the Commissioner Appeal who without examining the documentary proof furnished by the applicant, failed to consider the facts of the case and rejected the appeal;
- (xi) The Applicant prayed to set aside the impugned Orders and order the Original Authority to verify the BRCs and pass an appropriate order afresh.

6. A personal hearing in the case was granted to the applicant in view of the change in Revisionary authority on 08-01-2021, 15-01-2021, 22-01-2021 and 11-02-2021. No one appeared for the hearing on behalf of the Revenue and the claimant.

7. Government has carefully gone through the relevant case records available in the case file, written submissions and perused the impugned Order-in-Original and Order-in-Appeal.

8. On perusal of the records, Government observes that the Applicant, vide their letter dated 25<sup>th</sup> March, 2015 has informed that they have received another Order in Original No. 193/2014 (BRC) dated 23-06-2014 passed by Assistant Commissioner of Customs, ICD, CONCUR, Tirupur as per which the proceedings initiated vide SCN dated 21-07-2012 have been dropped. This Order covered the total shipping bills involving total drawback of Rs.164951/-, out of which four shipping bills are the subject matter of dispute in the present appeal.

9. On going through the said Order, Government notes that it has been dropped on the grounds that the relevant BRCs have been submitted on 5-10-2012. Further, the Applicant has in their revision application has also submitted the following documents:

- (i) Proof of Delivery of their letter dated 6-01-2012 wherein they had submitted Original copy of BRCs of 4 Shipping Bills.;
- (ii) Copy of letter dated 6.10.2012 wherein they have submitted the copy of the 4 SBs and the Original copy of the remaining Shipping Bill;
- (iii) Proof of Delivery of their letter dated 06-10-2012.

10. Government finds that inspite of the applicant submitting the realization of export proceeds received by the department in respect of the drawback amounting to Rs. 83,392/-, the adjudicating authority vide his OIO No. 8/2012-ICD-CONCUR-TPR dated 21.07.2012 had confirmed the duty drawback amount along with interest and the same was upheld by Commissioner (Appeals), which is not legal and proper.

11. In view of the OIO No. 193/2014 (BRC) dated 23-06-2014 dropping the drawback repayment of Rs.1,64,951/- which includes the 4 Shipping Bills of the present appeal, the earlier OIO No. 8/2012-ICD-CONCUR-TPR dated 21.07.2012 confirming Rs. 83,392/- becomes infructuous.

12. Under the circumstances, Government sets aside the impugned Order-in-Appeal No. CMB-CEX-000-APP-344-13 dated 28-10-2013 passed by the Commissioner of Customs, Central Excise & Service Tax (Appeals), Coimbatore and the OIO No. 8/2012-ICD-CONCUR-TPR dated 21.07.2012.

14. The Revision Application is allowed in above terms.

  
30/9/21  
(SHRAWAN KUMAR)

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

ORDER No. 237/2021-CUS (SZ)/ASRA/Mumbai Dated 30.09.2021

To,  
M/s Ananya Garments,  
No.01 and 02, Arunagiri Street,  
Mugalivakam,  
Chennai 600116

Copy to:

- 1) The Commissioner of Customs, 6/7, A.T.D. Street Race Course Road, Coimbatore – 641 081.
- 2) AC/DC of Customs, Inland Container Depot, Concor, Vidyalayam, Veerapandi (Post), Palladam Main Road, Tirupur-641605.
- 3) Sr. P.S. to AS (RA), Mumbai
- 4) Guard file
- 5) Spare Copy.