

REGISTERED

SPEED POST



F.No. 372/05/DBK/2014-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.....

ORDER NO. 31/2018 - Cus dated 5-2-2018 OF THE GOVERNMENT OF INDIA,
PASSED BY SHRI RAJPAL SHARMA, ADDITIONAL SECRETARY TO THE GOVERNMENT
OF INDIA, UNDER SECTION 129DD OF THE CUSTOMS ACT, 1962.

SUBJECT : Revision Application filed, under section 129 DD of the
Customs Act, 1962 against the Order-in-Appeal No.
158/Cus/DBK/Kol/P/2013 dated 04.10.2013 passed by the
Commissioner of Customs (Appeals), Kolkata.

APPLICANT : M/s. Sufia Jurak Pvt. Ltd.

RESPONDENT : Commissioner of Customs, Kolkata

ORDER

A revision application No. 372/05/DBK/2014-R.A.Cx dated 21/04/14 is filed by M/s Sufia Jurak Pvt. Ltd. Kolkata (hereinafter referred to as the applicant) against the O I A no 158/CUS/DBK/KOL/P/2013 dated 04/10/2013, passed by the commissioner of custom, Kolkata, who has rejected the appeal of the applicant filed before him.

2. The revision application is filed mainly on the ground that they had produced bank realization certificate before the commissioner appeal and, therefore, there was no cause for dismissal of their appeal.

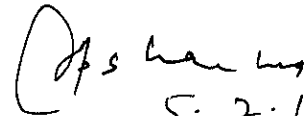
3. Personal hearing was offered on 14/11/2017, 06/12/2017 and thereafter on 20/12/2017 in this case. But while the Assistant Commissioner of Customs (DBK), Kolkata, attended hearing on 14/11/17 itself, the applicant has not appeared on personal hearing on any of the three hearing dates. In fact no response with regard to any of the three hearing dates has been received from which it is implicit that the applicant is not interested in availing personal hearing. Hence, this case is taken up for decision on the basis of available records.

4. On examination of all records pertaining to this case, the Government finds that the Assistant Commissioner of Customs (DBK), Kolkata, had confirmed the demand of Rs.50159/- against the applicant under Rule 16A of the Customs Central Excise Duty and Service Tax Drawback Rules, 1995 for non-realization of export proceeds vide his order dated 19/06/2012. However, no appeal against the said order was filed by the applicant before Commissioner (Appeal). But when the applicant received Detention Notice dated 14/12/2012 for recovery of the above stated confirmed amount, the applicant deposited the confirmed dues along with interest and filed appeal against the Detention Notice. The applicant also produced the bank realization certificates before the Commissioner (Appeals) as mentioned in Para 6 of the Order- in- Appeal. But still the Commissioner appeal was compelled to reject the appeal against the Detention Notice for the reason that no appeal had been filed against Order-in-Original dated 09/06/2012, whereunder the drawback amount had been confirmed, and as a result thereof it had reached finality due to non-filing of appeal. Consequently the Commissioner

(Appeals) observed that the Detention Notice is fully as per law and the appeal filed by applicant against the detention notice cannot be allowed.

5. In the revision application also the applicant has not rebutted the above facts and thereby it is established that the applicant had not filed any appeal against the Order-in-original of the Assistant Commissioner and its net effect was that the demand of drawback amount by the Assistant Commissioner became finally confirmed. If it was so, the drawback amount was undoubtedly recoverable from the applicant and the same was paid also along with interest in compliance of the Order-in-Original. Considering these facts and above discussed legal position, the order of the Commissioner (Appeals) is absolutely legal and proper.

6. Accordingly, the revision application is rejected.


5.2.18

(R.P. SHARMA)

ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA

M/s. Sufia Jurak Pvt. Ltd.,
2/H/13, Radha Gobinda Saha Lane,
4th Floor, Kolkata – 700 017.

ORDER NO. 31/2018-Cus dated 5-2-2018

Copy to:-

1. The Commissioner of Customs(P), 15/1, Strand Road, Customs House, Kolkata – 700 001.
2. The Commissioner of Customs (Appeals), 3rd Floor, Custom House, S15/1, Strand Road, Kolkata – 700 001.
3. The Assistant Commissioner(Drawback) of Customs, Custom House, 15/1, Strand Road, Kolkata- 700 001.
4. PS to AS(RA)
- 6 ✓ Guard File.
7. Spare copy

ATTESTED

(Debjit Banerjee)
Sr. Technical Officer