

REGISTERED
SPEED POST



F.No. 372/06/DBK/2018-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.....5/11/19

Order-No. 36/19-Cus dated 04/11/2019 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/1611/2017 dated 31.10.2017, passed by the Commissioner of Customs (Appeals), Kolkata.

Applicant : M/s Arvind Ltd.

Respondent : Commissioner of Customs(Port), Kolkata

ORDER

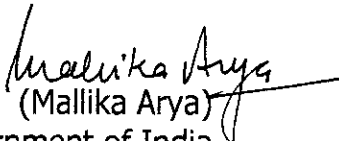
A Revision Application No.372/06/DBK/2018-RA dated 12.01.2018 has been filed by M/s Arvind Limited (hereinafter referred to as the applicant) against the Order No. KOL/Cus(port)/AA/1611/2017 dated 31.10.2017, issued by the Commissioner of Customs (Appeals), Kolkata. Commissioner (Appeals) vide the above mentioned Order-in-Appeal has rejected the appeal on the ground that the applicant did not pay mandatory pre-deposit of 7.5% as per Section 129 (E) of the Customs Act, 1962.

2. Brief facts of the case are that a demand cum no in terms of Rule 16 of the Customs, Central Excise duties and Service Tax Drawback Rules, 1995, in respect of 16 Shipping Bill was issued to the applicant for the recovery of drawback amount as the item exported earlier should have been classified under Drawback SI. No. 520904B, 520906B, 520907B and 521103B instead of 520904, 520906, 520907 and 521103 respectively. The incorrect classification has thus resulted in excess payment of Drawback of Rs.20,54,723/-. Vide the Order-in-Original No. 51/DC/DBK/2015-16 dated 17.02.2006 a demand of Rs. 18,36,666/- was confirmed along with applicable rate of interest. Aggrieved, the applicant filed an appeal before the Commissioner (Appeals) who rejected the appeal as non-maintainable on the ground mentioned above. The instant revision application has been filed mainly on the ground that they had already deposited a sum of Rs. 2,18,057/- which is more than 7.5% of the demand confirmed.

3. Personal hearing in the matter was fixed on 24.10.2019. Sh. Shridev Vyas Advocate, attended the hearing on behalf of the applicant. He reiterated the submissions already made in their Revision Application. The applicant has also submitted a copy of TR-6 Challan dated 18.10.2019 evidencing pre-deposit of Rs. 1,37,750/- which is apart from Rs. 2,18,057/- that was claimed to have been deposited earlier by them. No one from respondent's side appeared for Personal hearing. Therefore, case is being taken up for final decision on the basis of evidence available on records.

4. Government has examined the matter. It is observed that the Commissioner (Appeals) has rejected the appeal on the ground that the applicant did not pay mandatory pre-deposit of 7.5% as per Section 129 (E) of the Customs Act, 1962. As regard the non deposit of mandatory amount of 7.5%, Government is of the view that the applicant has now submitted the copy of TR-6 Challan No. Nil dated 18.10.2019 evidencing the payment of pre-deposit amount of Rs. 1,37,750/-. Since, the mandatory condition of pre-deposit has been fulfilled, Government holds that the matter needs to be re-examined in the light of the applicant's claim. Accordingly the matter is remanded back to Commissioner (Appeals) with the direction to decide the case on merit after verifying the genuineness of TR-6 challan.

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


(Mallika Arya)

Additional Secretary to the Government of India

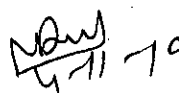
M/s Arvind Ltd,
Naroda Road,
Ahmedabad – 3800025

Order No. 36 /19-Cus dated 04-11-2019

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

Attested



(Nirmla Devi)

Section Officer (REVISION APPLICATION)