

REGISTERED
SPEED POST



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

F.No.371/48/DBK/2020-RA

14586

Date of issue:

11.07.2023

ORDER NO. 524/2023-CUS (WZ)/ASRA/MUMBAI DATED 06.7.2023
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.

Applicant : M/s. Wama Electro Appliances (I) Pvt. Ltd.

Respondent : Commissioner of Customs (Export), ACC, Mumbai

Subject : Revision Application filed under Section 129DD of the
Customs Act, 1962 against the Order-in-Appeal No. MUM-
CUSTM-AXP-APP-1156/19-20 dated 20.01.2020 passed by
the Commissioner of Customs (Appeals), Mumbai Zone-III.

show cause cum demand notice for recovery of the drawback sanctioned to them alongwith interest. The applicant did not respond to the intimations for personal hearing and therefore the adjudicating authority proceeded to confirm the demand for recovery of drawback sanctioned along with interest at the applicable rate. The applicant has claimed that they had not received the SCN, PH Notices and OIO passed by the adjudicating authority deciding the show cause notice for recovery of drawback sanctioned as they had shifted their registered office in the year 2012 and that they became aware of the OIO in the month of September 2019 when an alert was raised against their IEC code. Thereafter they received the OIO on 07.11.2019 after approaching the Customs Authorities and this matter was brought to the notice before Commissioner (Appeals) who has rejected the appeal on the ground of time bar. In the revision application, the applicant has made similar grounds to contend that the appeal was filed within the statutory appeal period after the receipt of the OIO. In the given facts and circumstances and also in the larger interest of justice, Government would be looking into the merits of the case.

7. Government observes that the Facility Notice No. 5/2017 dated 07.06.2017 had set out a mechanism to monitor the realisation of export proceeds in respect of EDI shipping bills with LEO date prior to 01.04.2013. As per this notice all exporters mentioned in enclosed Annexure were required to submit details of export realization received/certificate from authorized dealers/chartered accountants before 15.07.2017 which was subsequently extended till 31.07.2017. The applicant's name appeared in list of exporters mentioned in the Annexure to impugned Facility Notice. As the applicant failed to respond, a SCN was issued to them on 26.08.2017. The applicant has contended that they had furnished evidence regarding realization of export proceeds before Commissioner (Appeals). However, the appeal filed by the applicant was dismissed on the grounds of time bar by the Appellate authority.

8. Government observes that the applicant has submitted a 'Bank Certificate of Export and Realisation' dated 27.09.2019 issued by Andhra Bank, Mulund Branch. As per this certificate an amount Rs.1,51,075/- was credited on 16.03.2009 and an amount Rs.4,30,585/- was credited on 23.06.2009 against Shipping Bill No. 7317277 dated 23.06.2009. Thus, entire amount of Rs.5,63,741.50 including freight amount of Rs.27,118/- had been received with in the stipulated time.

9. In view of the above discussion and findings, the Government sets aside Order-in-Appeal No. MUM-CUSTOM-AXP-APP-1156/19-20 dated 20.01.2020 passed by the Commissioner of Customs (Appeals), Mumbai Zone-III and allows the instant Revision Application.


(SHRAWAN KUMAR)

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

ORDER No. 524/2023-CUS (WZ)/ASRA/Mumbai dated 06.7.23

To,
M/s. Wama Electro Appliances (I) Pvt. Ltd.,
B-402, Willows Tower, Vasant Garden,
Next to Yogi Hills, Mulund (W),
Mumbai - 400 080.

Copy to:

1. Commissioner of Customs,
Air Cargo Complex, Sahar,
Andheri (East), Mumbai - 400 099.
2. Sr. P.S. to AS (RA), Mumbai
- ~~3. Guard file.~~

