

REGISTERED  
SPEED POST

सत्यमेव जयते

GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
DEPARTMENT OF REVENUEOffice 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.371/125/DBK/2020-RA

Date of issue: 03.08.23

ORDER NO. 554 /2023-CUS (WZ)/ASRA/MUMBAI DATED 27.7. 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. Ahura Electricals 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-1159/19-20 dated 20.01.2020 passed by  
the Commissioner of Customs (Appeals), Mumbai Zone-III.

BRCs have been received and submitted with the application. She requested to allow the application.

5. Government has carefully gone through the relevant case records available in case files, oral & written submissions and perused the impugned Order-in-Original and Order-in-Appeal.

6. Government observes that the applicant had been sanctioned drawback totally amounting to Rs.70,800/- in respect of exports done by them. However, the applicant had not produced evidence to show that the sale proceeds (foreign exchange) in respect of the exported goods had been realised within the time limit prescribed under FEMA, 1999. The applicant had therefore been issued show cause cum demand notice for recovery of the drawback sanctioned to them alongwith interest and penalty. 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 and that they became aware of the OIO when during the regular course of business, their CHA informed that LEO against an export being attempted by them was not being issued as there were some pending dues to be paid. Thereafter they received the OIO on 05.11.2019 after approaching the Customs Authorities and these facts were brought to the notice before Commissioner (Appeals) who has rejected the appeal on the ground of time bar. 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 the Annexure enclosed therein 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 22.08.2017. 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 notes that since the rejection by Appellate Authority is on the grounds of limitation and the applicant has contended that the impugned OIO and other related correspondence was not received by them and also their averment that they have already submitted proof of realisation of export proceeds in the form of BRC (Bank Realisation Certificate) vide their letter dated 09.08.2019 with the Customs authorities, it is in the interest of justice that these claims of the applicant be taken up for verification.

9. In view of the above discussion and findings, the Government sets aside Order-in-Appeal No. MUM-CUSTOM-AXP-APP-1159/19-20 dated 20.01.2020 passed by the Commissioner of Customs (Appeals), Mumbai Zone-III and allows the instant Revision Application by remanding the matter to original authority for appropriate verification. The applicant should be provided reasonable opportunity for submission of required documents.

  
(SHRAWAN KUMAR)

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

ORDER No. 554 /2023-CUS (WZ)/ASRA/Mumbai dated 27.7.23

To,

M/s. Ahura Electricals Pvt. Limited,  
B/503, Seth Maneksha Ardeshir Patel CHSL,  
Pali Ram Road, K-ward, Andheri (W),  
Mumbai - 400 058.

Copy to:

1. Pr. Commissioner of Customs (Export),  
Drawback (XOS) Section, Air Cargo Complex,  
Sahar, Andheri (East), Mumbai - 400 099.

2. M/s. V. Lakshmikumaran,  
2<sup>nd</sup> Floor, B & C Wing, Cnergy IT Park,  
Appa Saheb Marathe Marg,  
Prabhadevi, Mumbai - 400 025.

3. Sr. P.S. to AS (RA), Mumbai

4. Guard file.