

REGISTERED
SPEED POST



F.No. 375/80/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.....18/3/21

Order No. 61/21-Cus dated 18-3-2021 of the Government of India passed by Sh. Sandeep Prakash, 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. LUD-Cus-001-APP/1063/2018 dated 03.05.2018, passed by the Commissioner of CGST & Customs (Appeals), Ludhiana.

Applicant : M/s GTB Impex

Respondent : Commissioner of Customs, Ludhiana

ORDER

A Revision Application No.380/75/DBK/18-RA dated 06.08.2018 has been filed by M/s GTB Impex, (hereinafter referred to as the applicant) against the Order No. LUD-Cus-001- APP/1063/2018 dated 03.05.2018, passed by the Commissioner of Goods & Service Tax (Appeals), Ludhiana, whereby the Commissioner (Appeals) has rejected the appeal of the applicant against the Order-in-Original No. 57/DC/BRC/OWPL/LDH/15 dated 26.03.2015 of the Deputy Commissioner of Customs, CFS, OWPL, Ludhiana.

2. Brief facts of the case are that the applicant filed drawback claims in respect of 02 Shipping Bills with the Dy. Commissioner of Customs, Drawback, CFS, OWPL, Ludhiana. The said claims were sanctioned. However, on scrutiny of the XOS statement, it was observed by the department that the applicant had failed to submit the proof to the effect that the export proceeds in respect of the said Shipping Bills had been realized in terms of Rule 16A of the Customs, Central Excise duties and Service Tax Drawback Rules, 1995. Accordingly, show cause notice dated 16.05.2011 and 30.03.2014 were issued to the applicant for the recovery of availed drawback amount of Rs.8,05,724/- along with interest. Demand of Rs.8,05,724/- was confirmed by the Dy. Commissioner of Customs, BRC-Cell, CFS, OWPL, Ludhiana, vide above said Order-in-Original dated 26.03.2015. Aggrieved, the applicant filed an appeal before the Commissioner (Appeals) who vide the impugned OIA rejected the appeal on the ground that the applicant has not realized the export proceeds in specified time period or such extended period as may be granted by the

Reserve Bank of India. The instant revision application has been filed mainly on the ground that the applicant had realized the export proceeds way back in 2011 and hence drawback amount already sanctioned to them can not be recovered.

3. Personal hearing was held on 18.03.2021 Sh. G. S. Bhangoo, Advocate attended on behalf of the applicant and reiterated that the exports proceeds have been realised even before the adverse orders were passed by the lower authorities. He drew attention to letter dated 09.03.2021, vide which the Authorized Dealer i.e. Punjab national Bank, has granted extension for realization of export proceeds on ex-post facto basis and submitted that with this extension, there is no basis for the case against them. Since, no one appeared for the respondent department and no request for adjournment has been received, the case is being taken up for final decision

4. Government has examined the matter. It is observed that the lower authorities have confirmed the demand of drawback on the grounds that the applicant did not receive the export proceeds against the 02 Shipping Bills within specified period of nine months. Applicant has, during these proceedings, submitted a copy of letter dated 09.03.2021 issued by the Senior Manager, Punjab National Bank, IBB Ludhiana, PNB House, Industrial Area, Ludhiana (AD Code: 0303198) which states that ex-post facto extension for late realization has been granted at the request of the applicant. Thus, the Government finds that it will be in the interest of justice if the matter is re-examined in the light of the applicant's claim that they had realised the entire amount and that the late realisation has been regularised. Accordingly,

the matter is remanded back to the jurisdictional Assistant/Dy. Commissioner to verify the genuineness and sufficiency of the BRC's along with the extension claimed to have been granted and decide the matter afresh, on merits

5. In view of the above, the orders of the authorities below are set aside and revision application is allowed by way of remand to the original authority, with directions as above.



(Sandeep Prakash)

Additional Secretary to the Government of India

M/s GTB Impex,
Hotel Vanjali Building,
Shivpuri chowk,
Julundur Bye Pass road,
Ludhiana 141007.

Order No. 6/21-Cus dated 18-3-2021

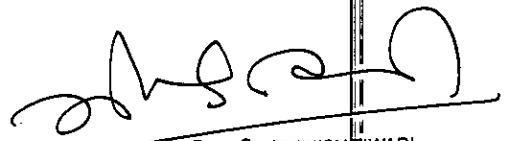
Copy to:

1. The Commissioner of Customs, Container Freight station, OWPL, C-205, Phase - V, Focal Point Bhandhari kalan, Ludhiana - 141010, Punjab.
2. Commissioner of Goods and Services Tax, (Appeals) F-Block, Rishi Nagar, Ludhiana.
3. Deputy Commissioner of Customs, Drawback, CFS, OWPL, Ludhiana, Punjab.
4. Shri. G.S. Bhangoo, Advocate, _____
5. PS to AS(RA)
6. Guard File.
7. Spare Copy

Attested

(Nirmala Devi)
Section Officer (REVISION APPLICATION)

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आशीष तिवारी / ASHISH TIWARI
सहायक आयुक्ता / Assistant Commissioner
केन्द्रीय वस्तु एवं सेवा कर, केन्द्रीय उत्पाद एवं सीमा शुल्क
CGST, Central Excise & Customs
राजस्व विभाग / Department of Revenue
वित्त मंत्रालय / Ministry of Finance
भारत सरकार / Government of India
नई दिल्ली / New Delhi