

REGISTERED
SPEED POST



F. No. 372/08/DBK/2018-R.A.
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. 28/8/19

ORDER No. 8/19-Cus dated 28-8-2019 OF THE GOVERNMENT OF INDIA, PASSED BY SMT MALLIKA ARYA, ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA, UNDER SECTION 129DD OF THE CUSTOMS ACT, 1962.

SUBJECT : Revision Application filed under section 129DD of the Customs Act, 1962 against the Order-in-Appeal No. KOL/CUS(PORT)/AA/1656/2017 dated 02.11.2017, passed by Commissioner of Customs (Appeals), Kolkata.

APPLICANT : M/s Jahan Exports.

RESPONDENT: Commissioner of Customs (Port), Kolkata

ORDER

A Revision Application No. 372/08/DBK/2018-R.A. dated 22/01/2018, has been filed by the M/s Jahan Exports, New Delhi (hereinafter referred to as the "applicant") against the Order No. KOL/CUS(PORT)/AA/1656/2017 dated 02.11.2017, issued by the Commissioner of Customs (Appeals), Kolkata, whereby their appeal was rejected as time barred.

2. The applicant has filed the revision application mainly on the ground that they had never received the Order-in-Original No. KOL/CUS/DC/301/DBK/2014 dated 30.03.2015, passed by the Dy. Commissioner of Customs, Drawback, Kolkata. It is contended by the applicant that they came to know about the above mentioned Order-in-Original only when they got a letter dated 02.02.2017 from the Dy. Commissioner of Customs, Drawback, Kolkata, a demand for the amount of Rs. 64,419/- as inadmissible drawback along with interest. Commissioner(Appeals) vide the above mentioned order has rejected the appeal of the applicant on the ground that the applicant has failed to provide any satisfactory evidence in support of their claim that they received the order dated 30.03.2015 only on 03.02.2017.

3. A personal hearing was held on 16.08.2019. Mr. Noorul Hoda, appeared on behalf of the applicant on the said date. He reiterated his submission that they had not received the Order-in-Original dated 31.03.2015 and thereafter they filed the appeal before the Commissioner (Appeals) in March, 2017 on receipt of demand/recovery notice dated 02.02.2017 from the department. No one appeared on behalf of respondent and no request has been received for a personal hearing for any other date. Therefore, I take up the case for final disposal.

3. The government has examined the matter and found that the revision application has been filed mainly on the ground that applicant came to know about the Order-in-Original only in March, 2017 when they received a demand/recovery notice from the Jurisdictional Dy. Commissioner of Customs, Drawback, Kolkata. On the receipt of the said notice they filed an appeal before the Commissioner (Appeals) which was rejected as time barred. In this regard, an enquiry has been made by this office with the Commissioner of Customs(Port), Kolkata, regarding the date on which the impugned order-in-Original dated 30.03.2015 was sent to M/s. Jahan Exports. The Assistant Commissioner of Customs, Drawback Department (Port), Custom House, Kolkata, vide their letter dated 26.08.2019 have communicated that the above impugned Order-in-Original was issued by Speed Post under Bar Code Article Number EW394471432IN on 06.04.2015 to M/s Jahan Exports, Kolkata-46 which is the registered address of the applicant and all communication are sent at this address only. I also observe that the recovery letter dated 2.2.17 was also sent on the same address which has been received by the applicant.

4. It is not the applicant's case that their address has ever changed during the said period and the same was communicated to the department. It is observed that all communications by the department i.e. Order-in-Original, recovery notice, Commissioner (Appeals) Order were sent on the address as is available on record and have been duly received by the applicant except O-I-O. Therefore, the contention of the applicant that they did not receive the O-I-O is not tenable and, therefore, Government does not find any reason to interfere with the order of Commissioner (Appeals).

4. In terms of the above discussion, the revision application filed by the applicant is rejected.

Mallika Arya
(MALLIKA ARYA)

ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA

M/s Jahan Exports,
82, Tiljala Road,
Kolkata - 700046

Order No. 08/19-Cus dated 28-1-2019

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. Assistant Commissioner, (Drawback, Port), 15/1 Strand Road, Custom House, Kolkata - 700001.
4. PS to AS(RA)
5. Guard File.
6. Spare Copy
7. copy

ATTESTED

NDV
28/1/19
(NIRMALA DEVI)
Section Officer