

F.No. 375/96/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.....20/4/21

Order No. 84/21-Cus dated 19-4-2021 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-1128-2018 dated 14.05.2018, passed by the Commissioner of Goods and Service Tax (Appeals), Ludhiana.

Applicant : M/s Rinku International, Jalándhar

Respondent : Commissioner of Customs, Ludhaina

ORDER

Revision Application No.375/96/DBK/2018-RA dated 17.08.2018, has been filed by M/s Rinku International, Jalandhar, (hereinafter referred to as the Applicant) against the Orders-in-Appeal LUD-CUS-001-APP/1128/2018 dated 14.05.2018, passed by the Commissioner of Goods & Service Tax (Appeals), Ludhiana. Commissioner (Appeals), vide the above mentioned Order-in-Appeal, has rejected the appeal filed by the applicant herein on the ground that the applicant did not make the mandatory pre-deposit of 7.5%, as per Section 129E of the Customs Act, 1962.

2. Brief facts of the case are that the Applicant filed drawback claim in respect of 07 Shipping Bills, during the calendar year 2008 and 2009, with the Deputy Commissioner of Customs, Drawback, CFS, OWPL, Ludhiana, for a total amount of Rs.22,37,714/-. The said claim was sanctioned by the jurisdictional Deputy Commissioner. However, on scrutiny of the XOS statement, it was observed by the office of respondent that the applicant had failed to submit the proof to the effect that the export proceeds in respect of the Shipping Bills in dispute had been realized in terms of Rule 16A of the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995. Accordingly, show cause notices were issued to the respondent for the recovery of drawback availed amount of Rs.22,37,714/- along with interest. The demand was confirmed by the Deputy Commissioner of Customs, Drawback CFS, OWPL, Ludhiana vide Order-in-Original No. 59-60/DC/BRC/OWPL/LDH/2015 dated 31.03.2015. Aggrieved the applicant filed an

appeal before the Commissioner (Appeals) who rejected the appeals as non-maintainable on the grounds mentioned above. The instant revision application has been filed, mainly, on the ground that the statutory benefits can not be denied for procedural infractions since the mandatory condition of realization of export proceeds has been fulfilled.

3. Personal hearing, in virtual, mode was held on 19.04.2021. Sh. Ravi Chopra, Advocate, attended the hearing on behalf of the applicant. He stated that they are willing to make the pre-deposit in terms of Section 129 E of the Customs Act, 1962. Therefore, subject to pre-deposit being made, the matter may be remanded to the Commissioner (Appeals) for decision on merits. None appeared on behalf of the respondent nor any request for adjournment has been made. Therefore, the case is being taken up for decision on the basis of available records.

4. Government has examined the matter. The Commissioner (Appeals) has rejected the appeal on the ground that the applicant did not make mandatory pre-deposit of 7.5% as per Section 129E of the Customs Act, 1962. At this stage, it is not disputed that being a mandatory condition the pre-deposit ought to have been made. Only plea is that the matter should, now, be remanded back to Commissioner (Appeals) for decision on merits subject to the pre-deposit being made. It is observed that the order of Commissioner (Appeals) is more than 2 years and 11 months old and the applicant was having sufficient time to make the pre-deposit, but the same was not done. Even at this late stage, the applicant has

not sought a remand after making the pre-deposit but have made pre-deposit conditional to the remand order being passed. Further, there is no explanation as to why the applicant could not approach with this plea after making the pre-deposit. In the circumstances, the request made by applicant does not appear to be bonafide. Keeping in the view the statutory position, there is no infirmity in the impugned Order-in-Appeal.

5. The revision application is rejected .



(Sandeep Prakash)

Additional Secretary to the Government of India

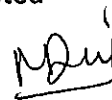
M/s Rinku International,
Village Gadaipur,
Near Focal Point Jalandhar,
Punjab 144003

Order No. 84 /21-Cus dated 19-4-2021

Copy to:

1. Commissioner of Customs , Container Freight Station, OWPL, C,-205, Phase – V, Focal Point Bhandhari Kalan, Ludhiana – 141010.
2. Commissioner (Appeals), Goods and Seviles Tax, F-Block, Rishi Nagr, Ludhiana.
3. Sh. Ravi Chopra, Advocate444, GTB Nagar, Jalandhar, Punjab 144003
4. PS to AS(RA)
5. Guard File.
6. Spare Copy

Attested



(Nirmala Devi)

Section Officer (Revision Application)