

REGISTEREDSPEED POST

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GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

8th Floor, World Trade Centre, Centre - I, Cuffe Parade,
Mumbai-400 005

F.No.373/14/DBK/14-RA ¹³²¹¹ Date of Issue 31.07.2020

ORDER NO. 92/2020-CUS (SZ) / ASRA / MUMBAI/ DATED 02.07.2020
OF THE GOVERNMENT OF INDIA PASSED BY SMT. SEEMA ARORA ,
PRINCIPAL COMMISSIONER & EX-OFFICIO ADDITIONAL SECRETARY
TO THE GOVERNMENT OF INDIA, UNDER SECTION 129DD OF THE
CUSTOMS ACT, 1962.

- Applicant** : M/s Cee Dee Garments,
15, Kaliappa Nagar, 1st street, Kangayam Road,
Tirupur- 641 604.
- Respondent** : The Commissioner of Customs, Coimbatore.
- Subject** : Revision Application filed, under Section 129DD of
the Customs Act, 1962 against the Order-in-
Appeal No.CMB-CEX-000-APP-004-14 dated
31.01.2014 passed by the Commissioner of
Customs (Appeals), Coimbatore.



ORDER

The Revision Application is filed by M/s Cee Dee Garments, Tirupur (herein after referred to as 'the applicant) against the Order in Appeal No.CMB-CEX-000-APP-004-14 dated 31.01.2014 passed by the Commissioner of Customs (Appeals), Coimbatore.

2. Brief facts of the case are that the applicant had exported the goods under the shipping bills and received the drawback of Rs. 20,900/- (Rupees Twenty Thousand Nine Hundred Only) for the export of read made garments through ICD, Tirpur vide Shipping Bill No. 14756 dated 15.06.006. The applicant did not furnish the BRCs for realisation of export proceeds in respect of export of goods within the period allowed under the Foreign Exchange Management Act, 1973 including any extension of such period granted by the Reserve Bank of India. The adjudicating authority vide Order in Original No. c directed the applicant to pay a sum of Rs. 20,900/- together with interest at the prescribed rate and imposed a penalty of Rs. 500/- under Section 117 of the Customs Act, 1962..

3. Aggrieved by the said order, the Applicant filed appeal before Commissioner (Appeal) on the following grounds :-

3.1 The applicant had submitted the BRCs through their CHA as the sale proceeds had been realised within time limit.

3.2 The order was passed without causing necessary verification of the records available and without observing the principles of natural justice.

4. The Appellate Authority vide impugned order in appeal dismissed the appeal being time barred.

5. The applicant contested the impugned Order in Appeal passed by the Appellate Authority in the instant Revision Application on following grounds:-



5.1 The adjudicating authority passed the order in original without examining the factual position and without causing necessary verification of the records available. They were not effectively offered a chance of personal hearing to defend the case.

5.2 The show cause notice was issued on 31.01.2008 and they received it in February 2008. The order in original has been passed during January, 2013 i.e. nearly after four years from the date of issuance of first SCN.

5.3 The adjudicating authority had come to a factually incorrect conclusion that the applicant had not filed the evidence of realisation of export proceeds in respect of the said exported goods within the period allowed under the FEMA, 1999.

5.4 The applicant had ensured the filing of copy of BRCs in time through CHA. However, the order of recovery was issued without issuing the SCNs and without offering the chances of personal hearing.

5.5 The sale proceeds were realised within time and the same was informed to the department in time.

5.6 The appellate authority did not give justice.

6. Personal Hearing was held on 23.05.208, 20.11.2019 and 28.11.2019. The applicant vide letter dated 11.11.2019 informed that they did not want to be heard in person and requested to decide the revision application base on the submissions. No one attended the personal hearing on behalf of the department.

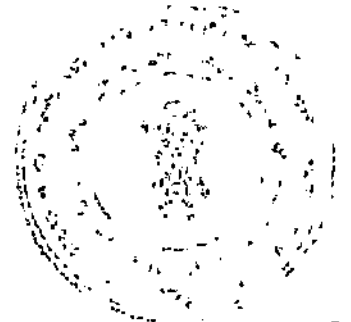
7. The Government has carefully gone through the relevant case records, the impugned Order-in-Original, Order-in-Appeal and the grounds of filing the revision application.

8. It is found that the applicant had filed the appeal before first appellate authority on the grounds that the impugned Order in Original No.



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NO. 151/2019/DBK/14-RA
 11/11/2019



75/2013-Asstt. Commissioner dated 01.2013 was passed by the Adjudicating Authority without giving an opportunity of hearing to the Applicant and therefore it amounts to violation of Principal of Natural Justice.

9. The Government further observes that the applicant has taken a stand before the Appellate Authority that the order-in-original was passed in violation of principles of natural justice, in as much that they were not given an opportunity of representing the case or to produce evidence in their support. The Government opines that on this ground itself, the appellate authority should have taken up the application for condonation of delay and disposed it off on its own merits, instead of dismissing the same being time barred.

10. The Government further notices that the issue involved in this case pertains to the year 2007-2008. There has to be a time bound direction to the lower authorities to decide the issue conclusively. In the interest of justice, the lower authority i.e. adjudicating authority is directed to grant an opportunity of personal hearing to the appellant and decide the issue on merit within four weeks from the date of receipt of this order.

11. Accordingly, the impugned Order in Appeal is set aside and the matter is remanded back to the original adjudicating authority to follow the directions as given above and pass an order on merits. The appeal is allowed by way of remand.

12. So, ordered.

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20/7/20

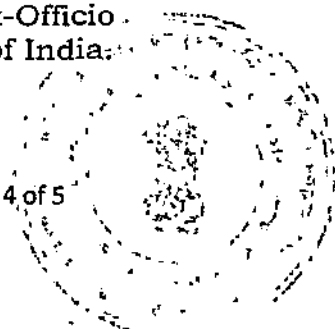
(SEEMA ARORA)

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

ATTESTED

(Handwritten signature)

B. LOKANATHA REDDY
Deputy Commissioner (R.A.)



92
ORDER No./2020-CUS (SZ) /ASRA/MUMBAI DATED 02.07.2020

To,

M/s Cee Dee Garments,
15, Kaliappa Nagar, 1st street,
Kangayam Road, Tirupur- 641 604.

Copy to:

1. The Commissioner Of Customs, No.1, Williams Road, Cantonment, Tiruchirapalli- 620 001.
2. The Commissioner of Customs, Central Excise & Service Tax (Appeals), 6/7, A.T.D., Race Course Road, Coimbatore- 641 018.
3. The Assistant Commissioner of Customs, Inland Container Depot, Rakkiyalalayam Village, Tirupur, Tamil Nadu.
4. Sr. P.S. to AS (RA), Mumbai.
5. Guard File.
6. Spare Copy.

