

REGISTERED
SPEED POST



F.No. 375/11/DBK/14-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.. 3/11/17

ORDER NO. 26 /17-Cx DATED 01/11/2017 OF THE GOVERNMENT OF INDIA,
PASSED BY SHRI R.P.SHARMA ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA,
UNDER SECTION 129 DD OF THE CUSTOMS ACT, 1962.

Subject : Revision Application filed, Under Section 129 DD of the Customs Act, 1962 against the Order-In-Appeal No. 84/CUS/APPL/KNP/2013 dated 09.12.2013 passed by the Commissioner of Customs (Appeals), Kanpur.

Applicant : M/s. ZAZ & ZAZ Pvt. Ltd.,

Respondent : Commissioner of Customs, Kanpur,

ORDER

This revision application No. 375/11/DBK/2014-RA has been filed by M/s ZAZ & ZAZ Ltd (herein after referred to as applicant) against the order No. 84/CUS/APPL/KNP/2013 dated 09.12.2013, passed by Commissioner (Appeals), Kanpur. Besides the applicant has also filed an application for condonation of delay of 15 days on the ground of indisposition of applicant due to which the Revision Application could not be prepared and filed on time.

2. Brief facts of the case are that the applicant had exported finished leather against the below mentioned Shipping Bills and claimed drawback under Customs, Central Excise and Service Tax Drawback Rules, 1995.

S.No	S/Bill No. and Date	Drawback Amt. Paid
1.	2639 dated 25.02.2010	66,172/-
2.	2534 dated 15.02.2010	67,072/-
3.	2543 dated 16.02.2010	1,85,222/-
4.	1725 dated 18.11.2009	2,25,183/-
5.	1781 dated 25.11.2009	4,61,849/-
	Total	10,05,508/-

3. Since the export proceeds against above Shipping Bills were not realized within the valid period as stipulated under the provisions of Foreign Exchange Management Act, 1999 or such extended period as may be allowed by Reserve Bank of India, the department initiated the proceedings for recovery of the drawback amount along with interest from applicant as per the provisions of Rule 16 A of Customs, Central Excise and Service Tax Drawback Rules, 1995 and recovery of Rs. 9,38,426/- was confirmed along with interest passed by the Assistant Commissioner/Deputy Commissioner against all the shipping bills except for the shipping bill No. 2534 dated 15.02.2010 as the export proceeds against the said shipping bill was realized in time. Being aggrieved, the applicant filed an appeal before Commissioner (Appeals) who, vide his order dated 09.12.2013, has rejected the same.

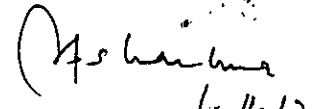
Applicant has now filed the instant revision application to challenge the order of commissioner (Appeals) on the ground that the Reserve Bank of India, vide its letter dated 15.02.2014 had extended the period upto 31.03.2014 for realisation of export proceeds and they have realized all the export proceeds in the above cases within the extended time period i.e. up to 31.03.2014.

4. Personal hearing in the matter was fixed for 15.09.2017 and the same was attended by Sh. Amit Awasthi, Advocate, on behalf of the applicant and he reiterated the grounds of revision application.

5. The Government has examined the applicant's request for condonation of delay and the same is allowed for the reason that the applicant was sick. As regard the main issue it is noticed that the Reserve Bank of India has extended the period up to 31.03.2014 vide their letter dated 15.02.2014 for realisation of export proceeds by the applicant in connection with Shipping Bill No. 2639 dated 25.02.2010, 2543 dated 16.02.2010, 1725 dated 18.11.2009 and 1781 dated 25.11.2009 and the applicant has claimed timely realisation of GBP 120651.21 up to 31.3.2014. The applicant has also produced BRCs, all dated 25.1.2014 along with their revision application to support their claim that they have realised export proceeds in all cases well within the extended period. As per the above BRC's it is now evident that the export proceeds have been received within the extended period and accordingly the applicant is eligible for drawback of duty.

6. In view of the above discussion, the Commissioner (Appeals)'s order is modified to the extent that the recovery of drawback is not found maintainable against shipping Bill No. 2639 dated 25.02.2010, 2543 dated 16.02.2010, 1725 dated 18.11.2009 and 1781 dated 25.11.2009. However, due verification of realisation of export proceeds in reference to above shipping Bills will be carried out by the Jurisdictional Assistant Commissioner and if it is found by him that the export proceeds have not been realised in time, he will be at liberty to recover drawback in this case.

7. The revision application is disposed off in above terms.


(R.P.SHARMA)

(Additional Secretary to the Government of India)

M/s. ZAZ & ZAZ Pvt. Ltd.,
150 Feet Road Jajmau
Kanpur 208010

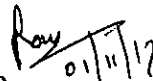
Order No. 26/17-Cx dated 1-11-2017

Copy to:-

1. The Commissioner of Customs, Central Excise & Service Tax, 117/7, Sarvodaya Nagar Kanpur-208005
2. The Commissioner (Appeals), Customs, 117/7, Sarvodaya Nagar Kanpur-208005
3. The Assistant Commissioner of Customs, ICD, Chakeri, Kanpur.
4. Shri Amit Awasthi, Advocate 7/116A, H-1, 1st Floor, Radhey Apartment, Swaroop Nagar, Kanpur-208002.
5. PS to AS (Revision Application)
6. Guard File
7. Spare Copy.

ATTESTED

(RAVI PRAKASH)
OSD(RA)


01/11/17