

SPEED POST



F. No. 373/197/DBK/2016-R.A.
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

14, HUDCO VISHALA BLDG., B WING
6th FLOOR, BHIKAJI CAMA PLACE,
NEW DELHI-110066

Date of Issue...04/01/23

Order No. 02 / 23-Cus dated 04-01-2023 of the Government of India, passed by Sh. Sandeep Prakash, 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. VIZ-CUSTM-000-APP-024-16-17 dated 28.06.2016, passed by Commissioner of Customs, Central Excise & Service Tax (Appeals), Visakhapatnam.

APPLICANT : M/s. ITC Limited, Guntur.

RESPONDENT : The Commissioner of Customs, Visakhapatnam.

ORDER

A Revision Application No.373/197/DBK/2016-RA dated 30.09.2016 has been filed by M/s ITC Limited, Guntur (hereinafter referred to as the Applicant) against the Order-in-Appeal No. VIZ-CUSTM-000-APP-024-16-17 dated 28.06.2016, passed by the Commissioner of Customs, Central Excise & Service Tax (Appeals), Visakhapatnam. The Commissioner (Appeals) has upheld the Order-in-Original No. 170/2013 dated 06.06.2013, passed by the Deputy Commissioner of Customs (Exp), Visakhapatnam.

2. Briefly stated, the Applicants herein had filed 14 Shipping Bills for the export of un-manufactured tobacco, (variously described as Stems/Scrap/ or Refuse), under claim of drawback in terms of Notification No. 68/2011 read with Notification No. 75/2011-Cus (NT) dated 28.10.2011. The drawback claim of the Applicant was sanctioned by the jurisdictional Customs authorities. Subsequently, on verification of the data by the Respondent department, it was noticed that the item description was indicated as 'UNMANUFACTURED TOBACCO' continued with an entry of Stems/Refuse/Scrap. Since the Tobacco Refuse is classifiable under CTH 24013000 and as such the drawback is not admissible under the said CTH, the Applicant was directed by the Respondent department to pay back the already availed duty drawback amount of Rs. 1,19,057/- along with interest in terms of Rule 16 of Customs, Central Excise Duties and Service Tax Drawback Rules, 1995. Original authority, vide the above mentioned OIO dated 10.06.2013, confirmed the demand of Rs. 1,19,057/- along with applicable interest. Aggrieved, the Applicant herein filed an appeal before the Commissioner (Appeals), which has been rejected.

3. The revision application has been filed, mainly, on the grounds that the Commissioner (Appeals) has erred in holding that drawback is not admissible as a separate entry under Customs Tariff Act, 1975 exists for the tobacco refuse; that in terms of Board's Circular No. 48/2011-Cus dated 31.10.2011 they are eligible for drawback as the drawback was prescribed at four digit level only; that the goods exported by them are included in 'unmanufactured tobacco' under entry 24011000 of the Drawback Schedule.

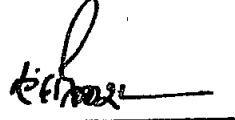
4. Personal hearing in the matter was held on 03.01.2023, in virtual mode. Sh. R. Dakshina Murthy, Advocate appeared for the Applicant and requested that the Written Submissions dated 16.12.2022 and 27.12.2022 may be taken on records. He reiterated the contents thereof along with the revision application. No one appeared for the Respondent department nor any request for adjournment has been received. Therefore, it is presumed that the department has nothing to add in the matter.

5.1 Government has examined the matter carefully. Before proceeding further in the matter, the details of RITC claimed and Drawback SI. No. claimed in the Shipping Bills are reproduced below, on illustrative basis:

SI No.	Shipping Bill No. & Date	Description of goods	RITC CD	DBK SI No.
1.	2520156 dated 07/11/2012	Unmanufactured India blue cured virginia tobacco stems, Gr-v SVLSY In 2012	24013000	24011000
2.	2600920 dated 14/11/2012	Unmanufactured India blue cured virginia tobacco stems, Gr-v SVLSY In 2010	24013000	24011000
3.	9268943 dated 06/06/2012	UM LPCV tobacco stems, Gr-v SVLSY In 2010	24012010	24011000
4.	9279385 dated 07/06/2012	19/LM IFCV tobacco stems, Gr-v SVLSY In 2011	24012010	24011000
5.	9891647 dated 17/07/2012	(Tobacco Refuse) Unmanufactured india FL Cure Virginia Tobacco Stems GE – V Svlven 2012	24012010	24011000

Thus, it is observed that different RITC No., Drawback SI.No. had been claimed. Further, the description of the goods is found to be different under different Shipping Bills. Further, the original authority as well as Appellate authority have not looked into this aspect at all and the matter has been looked into treating all of the goods as 'refuse'. As such, it would be in the interest of justice that the matter is remanded to the original authority for deciding the matter afresh, after following the principles of natural justice. All issues raised are kept open for de-novo adjudication.

6. The revision application is, accordingly, allowed by way of remand to the original authority, with directions as above.



(Sandeep Prakash)

Additional Secretary to the Government of India


M/s. ITC Limited, Agri Business,
Division-I Ltd., Grand Trunk Road,
P.B. No. 317,
Guntur-5220004
Andhra Pradesh

Order No. 02 /23-Cus dated 04-01-2023

Copy to:-

1. The Commissioner of Customs, Customs House, Port Area, Visakhapatnam-530035.
2. The Commissioner (Appeals), Customs, Central Excise and Service Tax, 4th Floor, Custom House, Port Area, Visakhapatnam-530035.
3. Sh. R. Dakshina Murthy, Advocate, No. 152, Race Course Road, Bengaluru-560001.
4. P.S to A.S (RA)
5. Guard File
6. Spare Copy
7. Notice Board

ATTESTED


श्री अश्वनी कुमार लु / Ashwani Kumar Lou
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