

REGISTERED  
SPEED POST



F.No. 380/02/DBK/2018-RA  
GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(DEPARTMENT OF REVENUE)

14, HUDCO VISHALA BLDG., B WING  
6<sup>th</sup> FLOOR, BHIKAJI CAMA PLACE,  
NEW DELHI-110 066

Date of Issue. 8/1/2020

Order No. 09/2020-LWS ~~#19-Cu~~ dated 02/01/2020 ~~2019~~ of the Government of India passed by Mrs. Mallika Arya, Principal Commissioner & 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. KOL/Cus(Airport)/AA/2002/2017 dated 22.11.017, passed by the Commissioner of Customs (Appeals), Kolkata.
- Applicant : Commissioner of Customs(Airport & ACC), Kolkata
- Respondent : M/s Adhar Sahni,

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**ORDER**

A Revision Application No.380/02/DBK/18-RA dated 06.02.2018 has been filed by Principal Commissioner of Customs (Airport & ACC), Kolkata, (hereinafter referred to as the applicant) against the Order No.KOL/Cus(Airport & ACC)/AA/2002/2017 dated 22.11.2017, passed by the Commissioner of Customs (Appeals), Kolkata. Commissioner (Appeals) vide the above mentioned Order-in-Appeal has allowed the appeal of the M/s Adhar Sahni, (herein after referred to as the respondent) and set aside the order in original No. KOL/CUS/ACC/AC/22/17 dated 23.05.2017 on the ground that the respondent had realised the export proceeds and accordingly the drawback claim of the respondent is allowed.

2. Brief facts of the case are that the respondent filed drawback claim in respect of 03 Shipping Bills with the Dy. Commissioner of Customs, Drawback ACC, Kolkata. The said claim were rejected by the jurisdictional Dy. Commissioner of Drawback, Custom House, Kolkata on the ground that the applicant had failed to submit the proof of export proceeds in respect of impugned Shipping Bill in terms of Rule 16A of the Customs, Central Excise duties and Service Tax Drawback Rules, 1995. Aggrieved, the respondent filed an appeal before the Commissioner (Appeals) who allowed the drawback claim as the copy of BRC's evidencing that the export proceeds had been realised was submitted before the Commissioner (Appeals). The instant revision application has been filed mainly on the ground that the applicant did not submit any evidence before the adjudicating authority that the export proceeds had been realised. Further, the BRC's submitted by the exporter before the Commissioner (Appeals) are not e-BRC's and hence not acceptable in terms of DGFT Policy Circular No. 06(RE-2012)/2009-14 dated 10.12.2012.

3. Personal hearing was attended by Sh. Hirakdyuti Pal, on behalf of the respondent. He reiterated that the exports proceeds have been realised and submitted the copies of BRC's alongwith the shipping bill. Since, no one appeared

for the applicant and no request for any other date of hearing has been received, the case is being taken up for final disposal.

4. Government has examined the matter. It is observed that the revision application has been filed mainly on the ground that BRC's submitted before the Commissioner (Appeals) were not e-BRC's. It appears that the applicant has a doubt regarding the authenticity of the impugned BRC.

Government finds that the doubt of the applicant is farfetched in view of the fact that the respondent has produced the copies of the e-BRC's available on the DGFT website in respect of Shipping Bill No. 1699255 and 8670280 dated 18.10.2016 and 04.07.2016 respectively and a manual BRC bearing No. 852130575580 dated 24.05.2011 in respect of the Shipping Bill No. 1918907 dated 04.12.2010. The said BRC has been issued by Standard Chartered Bank, 19, N.S. Road, Kolkata-700001 on 24.05.2011 evidencing realisation of export proceeds in respect of shipping bill No. 1918907 dated 04.12.2010.

In the light of the fact narrated above Government holds that BRC's and the Commissioner (Appeals) observation's to the effect that the export proceeds have been realised is legally sustainable. Accordingly, Government upholds the order of Commissioner (Appeals). The adjudicating authority is directed to verify the genuineness of the BRC's and decide the drawback claims on merits.

5. Accordingly, the revision application filed by the applicant is disposed off.

  
(Mallika Arora)

Additional Secretary to the Government of India

The Commissioner of Customs (Airport & ACC),  
NSCBI Airport, Dumdum,  
Kolkata - 700052.

Order No. 09/2020-Lux 02/01/2020  
19-Cus dated 2019

Copy to:

1. M/s Adhar Sahni, 5b, Stephen Court, 18-A, Park Steet, Kolkata-700016
2. Commissioner of Customs (Appeals), Kolkata, 15/1 Strand Road, Custom House, Kolkata- 700001.

3. Deputy Commissioner, (Drawback, Airport), NSCBI Airport, Dumdum, Kolkata - 700052PS to AS(RA)
- ✓ 2. Guard File.
3. Spare Copy

Attested

*M. Devi*  
8/11/2020

(Nirmala Devi)  
Section Officer (REVISION APPLICATION)