

F.No. 375/107/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...10/8/21

Order No. 15021-Cus dated 10-8-2021 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. CC(A)CUS/D-II/ICD/TKD/EXP/613/2017 dated 21.08.2017, passed by the Commissioner of Customs (Appeals), New Custom House, Near IGI Airport, New Delhi 110037.

Applicant : M/s DCM Textiles (A unit of DCM Ltd), Hisar, Haryana

Respondent : Commissioner of Customs (Exports), ICD, TKD, New Delhi

ORDER

Revision Application No.375/107/DBK/2018-RA dated 09.10.2018 has been filed by M/s DCM Textiles (A Unit of DCM Ltd), Hisar, Haryana, (hereinafter referred to as the Applicant) against the Orders-in-Appeal No. CC(A)CUS/D-II/ICD/TKD/EXP/613/2017 dated 21.08.2017, passed by the Commissioner of Customs (Appeals), New Custom House, New Delhi. Commissioner (Appeals), vide the above mentioned Order-in-Appeal, has rejected the appeal of the Applicant on the ground that the relaxation period granted for filing supplementary claim in terms of CBEC circular No.39/2007-Cus dated 09.10.2007 is not applicable to the impugned claims and also the Applicant had neither filed the supplementary drawback claim within the stipulated time period of three months nor the same was filed with an application for extension of time along with the fees prescribed.

2. Brief facts of the case are that the Applicant filed a supplementary drawback claim on the ground that the drawback rates for grey cotton yarn of less than 60 counts had been enhanced from 4% to 5.4%, vide Notification No. 68/2007-Cus (NT) dated 16.07.2007, and from 5.4% to 6%, vide Notification No. 121/2007-Cus (NT) dated 13.12.2007. The said claim was filed on the strength of CBEC Circular No. 39/2007-Cus dated 09.10.2007 wherein it is stated that one time relaxation is granted to exporters to file supplementary drawback claim against all EDI Shipping Bills in respect of which Let Export Orders (LEOs) were given by the Customs authorities during the period 01.04.2007 to 17.07.2007. Deputy Commissioner of Customs, Drawback, ICD, TKD, New Delhi, vide Order-in-Original No. 398/2014-CUS dated 12.09.2014 rejected the supplementary drawback claim on the ground that the subject

exports were beyond the period for which one time relaxation was granted, vide Circular dated 09.10.2007, and also the supplementary drawback claims were not filed within the stipulated time period of 03 months as prescribed under Rule 15 (1) of the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995. Aggrieved the Applicant filed appeal before the Commissioner (Appeals), which was rejected.

3. The revision application has been filed by the Applicant, mainly, on the ground that the Circular dated 13.12.2007 is applicable in their case; that non filing of condonation of delay application along with late fees was not deliberate but, rather wrong impression of law.

4. Personal hearing was fixed on 02.06.2021 and 24.06.2021. Sh. Vijay Vishal Sharma, Manager (Legal) attended the hearing on behalf of the Applicant, in virtual mode, which was held on 24.06.2021 and stated that the matter is very old. Hence he may be granted some time to verify records and file additional submissions, if any. Matter could be heard thereafter. Accordingly, another hearing was granted on 10.08.2021. None appeared on behalf of the Applicant or the respondent nor any request for adjournment has been received. The Applicant has also not filed any additional submission. Since sufficient opportunities have been granted, the case is taken up for final decision, on the basis of facts available on record.

5. The instant revision application has been filed on 09.10.2018 when the impugned OIA was admittedly received on 21.08.2017. Thus, the revision application has been filed much beyond the period of limitation of 03 months as well as further condonable period of 03 months provided under Section 129 DD. As such, the revision application is liable to be dismissed on this ground alone.

6. On merits, the Government observes that the exports, for which supplementary drawback claims were filed by the Applicant, pertain to the period between 03.09.2007 to 01.12.2007. CBEC, vide Circular dated 09.12.2007, had granted one time relaxation for filing supplementary drawback claims against all EDI Shipping Bills in respect of which Let Export Orders were given by the Customs authorities during the period 01.04.2007 to 17.07.2007. Thus, it is evident that the subject supplementary drawback claims were not covered under the purview of the Circular dated 09.10.2007 as the Let Export Orders were not given during the period 01.04.2007 to 17.07.2007. Further, the claims were not filed within the stipulated time period of three months nor was the late fee paid for late submission of the claims. In any case, even if the Applicant had filed the claims within the stipulated time period, it ought to have been rejected solely on the ground that the period of subject was not covered under the purview of Board Circular dated 09.10.2007. As such, the Government finds no infirmity in the impugned Order-in-Appeal.

7. In view of the above, the revision application is rejected.



(Sandeep Prakash)

Additional Secretary to the Government of India

M/s DCM Textiles (A unit of DCM Ltd),
Post Box No. 59, Near Mela Ground,
Hissar – 125002.

Order No. 150/21-Cus dated 10-8-2021

Copy to:

1. Commissioner of Customs (Exports), ICD, Tughlaqabad, New Delhi - 110020.

2. Commissioner of Customs (Appeals), New Custom House, Near IGI Airport,
New Delhi - 110037.
3. PS to AS(RA)
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10.08.2021