

SPEED POST



F.No. 372/19/DBK/2019-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...08/09/21..

Order No. 173/21-Cus dated 08/09/21 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 under Section 129 DD of the Customs Act 1962 against the Order-in-Appeal No.138/CUS/CCP-GST/2018 dated 28.12.2018 passed by the Commissioner (Appeals), CGST, Central Excise & Customs, Bhubaneswar.

Applicant : M/s Aarti Steels Ltd., Cuttack.

Respondent : The Commissioner of Customs (Preventive), Bhubaneswar.

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ORDER

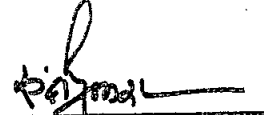
Revision Application No. 372/19/DBK/2019-RA dated 16.04.2019 has been filed by M/s Aarti Steels Ltd., Cuttack (hereinafter referred to as "Applicant") against Order in Appeal No. 138/CUS/CCP-GST/2018 dated 28.12.2018 passed by the Commissioner (Appeals), GST, Central Excise & Customs, Bhubaneswar.

2. The brief facts leading to the present proceedings are that the Applicants filed 08 Bills of Entry for clearance of goods imported by them. These Bills of entry were assessed provisionally by the proper officer of Customs under Section 18 of the Customs Act, 1962, pending submission of original/bank signed documents like commercial invoice, Bill of Lading etc. As the Applicant did not submit the requisite documents within the stipulated period of one month, the Assistant Commissioner of Customs, Dhamara Customs Division, vide OIO No. AC/DMR/29/2017 dated 16.11.2017, imposed a penalty of Rs. 10,000/- on the Applicant for the contravention of Regulation 5 of the Customs (Provisional Duty Assessment) Regulations, 2011. Aggrieved, the department filed an appeal before the Commissioner (Appeals) on the ground that the penalty imposed by the adjudicating authority is on a lower side. Commissioner (Appeals), vide the above mentioned OIA, allowed the appeal and imposed a penalty of Rs. 50,000/-. Vide the instant revision application, the Applicant challenged the order of Commissioner (Appeals) on the ground that the penalty imposed by the adjudicating authority is proper. The department, in reply, vide letter dated 10.06.2019, stated that they have no additional submission to make.

3. Personal hearing, in virtual mode, was held on 08.09.2021. Sh. Prakash Jena, Advocate, attended the hearing on behalf of the Applicant. Upon being asked about maintainability of the instant revision application under Section 129 DD of the Customs Act, 1962, in a matter relating to finalization of provisional assessment, Sh. Jena submitted that due to a bonafide mistake they have pursued the remedy in a wrong forum. Hence, they may be permitted to withdraw the revision application with liberty of approach the Tribunal. No one appeared on behalf of the respondent, nor has any request for adjournment been received. Accordingly, the case is being taken up for final disposal based on records.

4. The Government has carefully examined the matter and observes that the goods in question were imported by the Applicant as cargo for which regular bills of entry were filed before the proper officer of customs under Section 46 of the Customs Act, 1962. As per the provisions of Section 129 A, an appeal against the order of Commissioner (Appeals) lies with the Appellate Tribunal except for the cases listed in first proviso to sub-section (1) thereof. Instant case does not fall in the category of cases listed in the said proviso to Section 129 A (1). Hence, the revision application is not maintainable. Applicant themselves have also requested for the withdrawal of the revision application.

5. In view of the above, the Revision Application is rejected as withdrawn, with liberty to Applicant to approach the appropriate forum, as per law.



(Sandeep Prakash),


Additional Secretary to the Government of India

M/s Aarti Steels Ltd,
Ghantikhal, PO- Mahakalabasta,
Via- Athgarh, District – Cuttack,
Odisha-754029.

ORDER NO. ¹⁷³ / 21 CUS dated 08/09/2021
Copy to:-

1. The Commissioner of Customs (Preventive), C.R. Building, Rajaswa Vihar, Bhubaneswar – 751007.
2. The Commissioner (Appeals) CGST, Central Excise and Customs, C.R. Building, Rajaswa Vihar,, Bhubaneswar – 751007.
3. P.S. to A.S.
4. Guard File
5. Spare Copy

ATTESTED


(LAKSHMI RAGHAVAN)
अनुभाग अधिकारी / Section Officer
वित्त मंत्रालय (राजस्व विभाग)
Ministry of Finance (Deptt. of Rev.)
भारत सरकार / Govt. of India
नई दिल्ली / New Delhi