

SPEED POST



F.No. 375/08/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...04-10-21

Order No. 204/21-Cus dated 04-10-2021 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 under Section 129 DD of the Customs Act 1962 against the Order-in-Appeal No. 326(SM)CUS/JPR/2018 dated 04.10.2018 passed by the Commissioner (Appeals), CGST, Central Excise & Customs, Jaipur.

Applicant : M/s Shreenath Gums & Chemicals, Jodhpur.

Respondent : The Commissioner of Customs, Jaipur.

ORDER

A Revision Application, bearing no. 375/08/DBK/2019-RA dated 08.01.2019, has been filed by M/s Shreenath Gums & Chemicals, Jodhpur (hereinafter referred to as the Applicant) against the Order-in-Appeal No. 326(SM)CUS/JPR/2018 dated 04.10.2018 passed by the Commissioner (Appeals), Customs & CGST, Jaipur, vide which the appeal filed by the Applicant against the Order-in-Original No. 18/Refund/2014-15 dated 12.02.2015 has been rejected on the ground that the identity of the goods was not established as the batch no. of the re-exported goods vis-a-vis the imported goods do not match.

2. The revision application has been filed, mainly, on the ground that Commissioner (Appeals) has erred in holding that the identity of the goods was not established as they had mentioned the reference of invoice cum packing list number of Bill of Entry in the Shipping Bill filed for export. Further, the report of the examining officer of Customs at docks, on examination of the goods, had also confirmed that the goods were as per declaration; and that they had acted in conformity with Rule 4 and Rule 5 of the Drawback Rules.

3. Personal Hearing, in virtual mode, was held on 01.10.2021. Sh. O.P. Agarwal, Chartered Accountant, attended the hearing on behalf of the Applicant and reiterated the contents of the revision application. None appeared on behalf of the respondent. Nor any request for adjournment has been received. Therefore, the case is taken up for final decision.

4. On examination of the revision application, the Commissioner (Appeals)'s order and provisions of Section 74 of the Customs Act, 1962, it is observed by the Government that for admissibility of drawback, under Section 74 *ibid*, the following ingredients need to be satisfied: -

- i) The imported goods should be capable of being easily identified;
- ii) Duty of customs should be paid on importation and the imported goods should be exported within 2 years from the date of payment of duty on imported goods or as extended by the proper officer of Customs;
- iii) The goods should be identified to the satisfaction of Assistant/Dy. Commissioner of Customs as the goods which were imported; and

In this case, the duty drawback has been denied to the Applicant on the ground that the identity of the goods was not established to the satisfaction of the Dy. Commissioner of Customs since the batch number mentioned in the invoice cum packing list in respect of the Bill of Entry *vide* which the goods were imported were not the same as mentioned in the invoice cum packing list of the Shipping Bill *vide* which the goods were re-exported. The Government observes that in the Invoice cum Packing list dated 14.04.2012, the Lot No. is indicated as 1087 & 1088/84489 OP. The Bill Entry dated 15.10.2013, *vide* which the ostensibly same goods were reimported discloses the Batch No. as 1088 & 1087 whereas on the Export Invoice dated 06.02.2014 (which has been used to support claim of drawback) the Batch No. is mentioned as SNGC/1401/215 & 216. Thus, the findings of lower authorities, on this aspect, are correct. The establishment of the identity of goods to the satisfaction

of Deputy/Assistant Commissioner of Customs is an essential condition for the grant of drawback under Section 74 of the Customs Act, 1962. In the present case, the goods were exported under self-sealing procedure, i.e., without examination by departmental officers. The documents produced show variation in Batch No and, therefore, the identity of goods cannot be established even with reference to the documents. Thus, the Government does not find any infirmity in the impugned order of the Commissioner (Appeals).

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



(Sandeep Prakash)

Additional Secretary to the Government of India

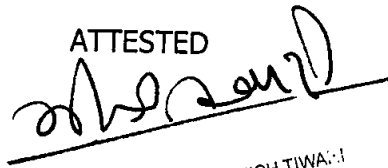
M/s Shreenath Gums & Chemicals,
Plot No. E-278, MIA, Basni Phase – II,
Jodhpur (Raj.) – 342 005.

Order No. 204/21-Cus dated 04-10-2021

Copy to:

1. The Commissioner of CGST, Jaipur, New Central Revenue Building, Statue Circle, "C" Scheme, Jaipur – 302 005.
2. The Commissioner (Appeals), Central Excise & CGST, Jaipur, New Central Revenue Building, Statue Circle, Jaipur – 302 005.
3. M/s. Om P. Agarwal & Co., Chartered Accountant, 56, Section 7, N. Power House Road, Jodhpur (Rajasthan) – 342003.
4. PA to AS(RA)
5. Guard File
6. Spare Copy

ATTESTED



आशीष तिवारी / ASHISH TIWARI
सहायक आयुक्त / Assistant Commissioner
केन्द्रीय वस्तु एवं सेवा कर, केन्द्रीय उत्पाद एवं सीमा शुल्क
CGST, Central Excise & Customs
राजस्व विभाग / Department of Revenue
वित्त मंत्रालय / Ministry of Finance
भारत सरकार / Government of India
नई दिल्ली / New Delhi