

REGISTERED
SPEED POST



F.No. 375/27/DBK/2021-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. 5/7/22

Order No. 208/22-Cus dated 05-07-2022 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 129DD of the Customs Act, 1962 against the Order-in-Appeal No. CC(A)Cus/D-I/Export/NCH/1468/2020-21 dated 12.02.2021, passed by Commissioner of Customs (Appeals), New Custom House, New Delhi.

APPLICANT : M/s. Gupta H.C. Overseas (I) Pvt. Ltd., Agra.

RESPONDENT : The Commissioner of Customs (Export), Air Cargo, New Delhi.

ORDER

Revision Application No.375/27/DBK/2021-RA dated 22.06.2022 has been filed by M/s. Gupta H.C. Overseas (I) Pvt. Ltd., Agra (hereinafter referred to as the Applicant) against the Order-in-Appeal No. CC(A)Cus/D- I/Export/NCH/1468/2020-21 dated 12.02.2021, passed by the Commissioner of Customs (Appeals), New Custom House, New Delhi. Commissioner (Appeals), vide the above mentioned Order-in-Appeal, has partly allowed the appeal of the Applicant, against the Order-in-Original No.480/TG/DC/ACE/DBK/BRC/2018 dated 14.02.2019 passed by the Deputy Commissioner of Customs, Air Cargo Export, New Custom House, New Delhi.

2. Brief facts of the case are that the Applicant filed drawback claims in respect of 120 Shipping Bills, with the jurisdictional Customs authorities, for a total amount of Rs.61,36,161/-, which was sanctioned. Subsequently, on scrutiny, it was observed by the office of Respondent that the Applicant had failed to submit the proof to the effect that the export proceeds in respect of the aforesaid Shipping Bills had been realized, in terms of Rule.16A of the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995. Accordingly, Show Cause Notice dated 28.03.2018 was issued to the Applicant and a demand of Rs.3,91,760/-, out of total demand of Rs.61,36,161/-, was confirmed, along with the applicable interest, by the original authority, vide the aforesaid Order-in-Original dated 15.02.2019. A penalty of Rs.5,000/- was also imposed under Section 114 of the Customs Act, 1962. Aggrieved, the Applicant filed an appeal before the Commissioner (Appeals), who vide the impugned OIA confirmed the demand of Rs. 3,81,512 /- and set aside the

demand for remaining amount of Rs. 10,248/-. Further, the penalty imposed on the Applicant under Section 114 was set aside.

3. The revision application has been filed, mainly, on the grounds that the subject remittances had been received in time but BRSs were issued late; and that the Bank of India vide letter dated 24.04.2019 had confirmed this position.

4. Personal hearing, in virtual mode, was held on 01.07.2022. Sh. Vishal Singh, Advocate and Sh. Thakur Singh, Export Manager appeared for the Applicant and requested that in view of the certificate regarding correct realization dates by the Bank, vide letter dated 24.04.2019, the matter may be remanded to the original authority for examination afresh after verification. No one appeared for the Respondent department nor any request for adjournment has been made. Therefore, the case is taken up for final decision.

5. The Government has examined the matter carefully. It is contended by the Applicant that they had realized the export proceeds within time. A copy of letter Ref:BR:AGRSME:FX:2019-20/SY-17 dated 24.04.2019 issued by the AD bank i.e. Bank of India, SME Branch, Agra has been submitted to support this contention. The Commissioner (Appeals) has refused to admit this letter of the AD Bank as the same was not produced before the original authority. However, the matter relates to drawback which is an export incentive. Therefore, it will be in the interest of justice if the matter is remanded to the original authority to verify the BRCs and the certificate dated 24.04.2019 issued by the AD Bank and to decide the matter afresh

after following the principles of natural justice. If upon verification, the contention of the Applicant that the remittance had been received within time, or such extended period as may have been granted by the competent authority, is found to be correct, the original authority shall close the subject matter against the Applicant.

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



(Sandeep Prakash)

Additional Secretary to the Government of India

M/s Gupta H.C. Overseas (I) Pvt. Ltd.,
425, Near Tube well colony,
Bye pass Road,
Agra, Uttar Pradesh 282007

Order No. 2 08/22-Cus dated 5-7-2022

Copy to:-

1. The Commissioner of Customs (Export), Air Cargo, New Custom House, New Delhi-110037.
2. The Commissioner of Customs (Appeals), New Custom House, new Delhi 110037.
3. Sh. Mohan Lal, Advocate, B-67, Flatted Factory complex, Okhla, Phase-III, new Delhi 110020.
4. P.S TO A.S (RA)
5. Guard File
6. Spare Copy

Attested



(लक्ष्मी राघवन)

(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