

**SPEED POST**



F. No. 373/504/B/2019-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. 23/01/23

Order No. 21/23-Cus dated 23-01-2023 of the Government of India passed by Shri 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. C. Cus. II No. 370/2019 dated 26.09.2019, passed by the Commissioner of Customs (Appeals-II), Chennai.

Applicant : M/s Almass Exporters, Chennai.

Respondent : The Commissioner of Customs, Chennai-II (Import), Chennai.

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**ORDER**

A Revision Application No. 373/504/B/2019-RA dated 14.11.2019 has been filed by M/s Almass Exporters, Chennai (hereinafter referred to as the Applicant), against the Order-in-Appeal No. C. Cus. II No. 370/2019 dated 26.09.2019, passed by the Commissioner of Customs (Appeals-II), Chennai. The Commissioner (Appeals) has, vide impugned Order-in-Appeal, upheld the Order-in-Original No. 64023/2018 dated 19.06.2018, passed by the Deputy Commissioner of Customs, Group 7B/7H, Chennai-II Commissionerate.

2. Briefly stated, the Applicants herein filed Bill of Entry No. 9651642 dated 11.05.2017 for the clearance of goods declared as "Hoverboard Balance Wheel", through Chennai Port. The Bill of Entry was self-assessed by the Applicants herein under CTH 95069990 and the BCD (Basic Customs Duty) was paid @ 10%. The original authority found that the imported goods were basically the self-balancing portable rechargeable battery-powered scooter and, therefore, rightly classifiable under CTH 8711 with BCD @ 100%. Therefore, the original authority rejected the self-assessment, classified the goods under CTH 8711 and confirmed the demand of differential duty of Rs. 3,63,460/-, along with interest. A penalty of Rs. 55,000/- was imposed under Section 112 of the Customs Act, 1962, and the imported goods were held liable for confiscation under Section 111(m) but were allowed to be redeemed on payment of redemption fine of Rs. 35,000/-. The appeal filed by the Applicants herein was rejected by the Commissioner (Appeals), vide the impugned Order-in-Appeal.

3. The revision application has been filed, mainly, on the grounds that as per Section 2 of the Motor Vehicles Act, the automobiles with an engine capacity of below 25CC cannot be called scooter; that the goods were cleared after examination and the duty was paid at the rate of 10% which is the appropriate rate of duty; that no penalty under Section 112 is imposable as there was no mis-declaration; and that the goods are correctly classifiable under CTH 95069990.

4. The revision application was filed along with an application fee challan of Rs. 200/-. Keeping in view, the provisions of sub-section (3) of Section 129DD, the Applicants were advised to pay the balance application fee of Rs. 800/-, vide letters dated 20.03.2020 and 12.01.2023. The balance application fee of Rs. 800/- has not yet been paid.

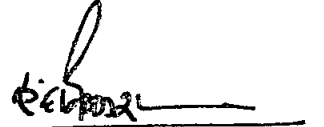
5. Personal hearing in the matter was fixed on 20.01.2023, in virtual mode. No one appeared for the Applicant nor any request for adjournment has been received. Sh. G. Nagaraju, JC appeared for the Respondent department and submitted that the subject matter involved herein is not covered by the first proviso to Section 129A (1) of the Customs Act, 1962. Hence, the revision application is not maintainable. Since for the reasons brought out hereinafter, the revision application is not maintainable, no useful purpose will be served by prolonging the matter. Hence, the revision application is taken up for disposal without affording any further opportunity for personal hearing to the Applicants.

6. The Government has examined the matter carefully. The dispute involved herein is related to the correct classification of the goods imported in general cargo and consequent demand of differential duty etc. As per sub-section (1) of Section 129DD, a revision application is maintainable before the Central Government in respect of any order passed under Section 128A by the Commissioner (Appeals) in respect of the matters of the nature referred to in the first proviso to sub-section (1) of Section 129A. The matters referred to in the first proviso to said sub-section (1) are as under:

- (a) any goods imported or exported as baggage;
- (b) any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India, or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination;
- (c) payment of drawback as provided in Chapter X, and the rules made thereunder:

It is evident that the subject matter of the Order-in-Appeal impugned herein is not covered by the first proviso to Section 129A (1). Therefore, the revision application is not maintainable. Further, the revision application is also liable to be rejected as the revision application fee of Rs. 1000/- has not been paid, which is in contravention of sub-section (3) of Section 129DD.

7. The Revision Application is rejected as non-maintainable for the reasons aforesaid, with liberty to the Applicants herein to approach the appropriate forum for remedy, if they so desire, in accordance with law.



(Sandeep Prakash)

Additional Secretary to the Government of India

M/s Almass Exporters,  
No. 18/64, Manady Street,  
Chennai-600001.

Order No. 2 / 23-Cus dated 23-01-2023

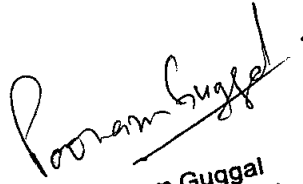
Copy to:

1. The Commissioner of Customs, Chennai-II (Import), Custom House, 60, Rajaji Salai Chennai-600001.
2. The Commissioner of Customs (Appeals-II), 60 Rajaji Salai, Custom House, Chennai-600001.

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3. Smt. Kamala Malar Palanikumar, Advocate, No. 10, Second Floor, Sunkurama Street, Chennai-600001.
4. PS to AS(RA).
5. Guard file.
6. Spare Copy.
7. Notice Board.

ATTESTED

  
पूनाम गुग्गल / Poonam Guggal  
अधीक्षक / Superintendent (R.A. Unit)  
वित्त मंत्रालय / Ministry of Finance  
राजस्व विभाग / Department of Revenue  
Room No. 605, 6th Floor, B-Wing  
14, Hudco Vishala Building, Bhikaji Cama  
New Delhi-110065