

SPEED POST



F.No. 375/131/DBK/2018-RA
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

14, HUDCO VISHALA BLDG., B WING
6th FLOOR, BHICAJI CAMA PLACE,
NEW DELHI-110 066

Date of Issue..13/10/21

Order No. 215/21-Cus dated 13-10-2021 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. 227-232(SM)CUS/JPR/2018 dated 01.08.2018 passed by the Commissioner (Appeals), CGST, Central Excise & Customs, Jaipur.

Applicant : M/s Angira Art Exports, Jodhpur.

Respondent : The Commissioner of Customs, Jaipur.

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ORDER

A Revision Application, bearing no. 375/131/DBK/2018-RA dated 08.11.2018, has been filed by M/s Angira Art Exports, Jodhpur (hereinafter referred to as the Applicant) against the Order-in-Appeal No. 227-232(SM)CUS/JPR/2018 dated 01.08.2018 passed by the Commissioner (Appeals), Customs & CGST, Jaipur, vide which the appeal filed by the Applicant against the Order-in-Original No. 599/2016-17 dated 31.01.2017 has been rejected on the ground that the Applicant had failed to submit BRCs in respect of Shipping Bill No. 8722918 dated 30.11.2013.

2. Brief facts of the case are that the Applicant filed drawback claims in respect of 05 Shipping Bills with the jurisdictional Customs authorities, and received a drawback amount of Rs. 2,66,889/-. Subsequently, on scrutiny, it was found that the Applicant had failed to submit the proof to the effect that the export proceeds in respect of the relevant Shipping Bills had been realized. Accordingly, show cause notice was issued in terms of Rule 16A of the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995, to the Applicant for the recovery of drawback availed amount of Rs. 2,66,889/- along with interest, out of which the demand of Rs. 1,45,849/- was confirmed by the original authority, vide aforesaid Order-in-Original dated 31.01.2017. Aggrieved, the Applicant filed an appeal before the Commissioner (Appeals), who vide the OIA dated 01.08.2018, upheld the demand in respect of Shipping Bill No. 8722918 dated 30.11.2013 for an amount of Rs. 63,227/- and set aside the demand for balance amount. The penalty imposed on the Applicant herein has also been reduced from Rs. 15,000/- to Rs. 5,000/-


3. The revision application has been filed, mainly, on the ground that the export proceeds in respect of the impugned Shipping Bill had been realized well within the stipulated period of time and, therefore, the confirmation of demand with interest is not legally sustainable.

4. Personal Hearing, in virtual mode, was held on 13.10.2021. Sh. O.P. Agarwal, Chartered Accountant, attended the hearing on behalf of the Applicant and submitted that the BRC in respect of Shipping Bill No. 8722918 dated 30.11.2013, which could not be submitted before the Commissioner (Appeals), has now been submitted vide letter dated 30.08.2021. The remittance has been received on 09.10.2018 and the permission of RBI/AD bank for late realisation is not available. No one attended the hearing on behalf of the respondent department nor a request for adjournment has been received.

5. The Government has examined the matter. The revision application has been filed, mainly, on the ground that the export proceeds had been realized well within the stipulated period of time. However, it has been admitted by the Applicant during the course of personal hearing that the same were not realized within the stipulated time period and the permission of RBI/AD Bank for late realization is not available. Government observes that, in terms of Rule 16A(1) *ibid*, the drawback is recoverable if the export proceeds are not realized within the period allowed under the Foreign Exchange Management Act, 1999, including any extension of such period. Admittedly, in the instant case, the export proceeds have not been realized within the period allowed nor has the extension been granted by the competent authority under FEMA.

Hence, there is no infirmity in the impugned order of Commissioner (Appeals), on this count.

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



(Sandeep Prakash)

Additional Secretary to the Government of India

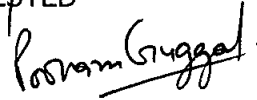
M/s Angira Art Exports,
Plot No. E-97,
Mandore Industrial Area,
Jodhpur (Raj.) – 342 005.

Order No. 215/21-Cus dated 13-10-2021

Copy to:

1. The Commissioner of Customs, 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



(Poonam Guggal)
Subdl. (R.A.)