

SPEED POST



F.No. 375/133/DBK/2018-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...13/10/21.....

Order No. 216/21-Cus dated 13/10/21 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. 224-226(SM)CUS/JPR/2018 dated 01.08.2018 passed by the Commissioner (Appeals), CGST, Central Excise & Customs, Jaipur.

Applicant : M/s Mec Shot Blasting Equipment Pvt. Ltd., Jodhpur

Respondent : The Commissioner of Customs, Jaipur.

**ORDER**

A Revision Application, bearing no. 375/133/DBK/2018-RA dated 15.11.2018, has been filed by M/s Mec Shot Blasting Equipment Pvt. Ltd., Jodhpur (hereinafter referred to as the Applicant) against the Order-in-Appeal No. 224-226(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.634/2016-17 dated 28.02.2017 has been rejected on the ground that the Applicant did not make the mandatory pre-deposit of 7.5%, as per Section 129E of the Customs Act, 1962.

2. Brief facts of the case are that the Applicant filed drawback claims in respect of 08 Shipping Bills with the jurisdictional Customs authorities, and received a drawback amount of Rs. 1,29,739/-. 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. 1,29,739/- along with interest, out of which the demand of Rs. 94,516/- was confirmed by the original authority, vide aforesaid Order-in-Original dated 28.02.2017. A penalty of Rs. 9000/- was also imposed under Section 117 ibid. Aggrieved, the Applicant filed an appeal before the Commissioner (Appeals), who vide the OIA dated 01.08.2018, rejected the appeal as non-maintainable on the grounds mentioned above.

3. The instant revision application has been filed mainly on the ground that they had already deposited the pre-deposit amount vide challan No. 002/17-18 dated 16.05.2017, but the same was not taken on record by the Commissioner (Appeals). On merits, it has been stated that the export proceeds were realised well within time.
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 case may be decided on the basis of submissions made in the revision application.
5. The instant RA has been filed with a delay of 07 days. Delay is condoned.
6. The Government has examined the matter carefully. It is observed that the Commissioner (Appeals) has rejected the appeal on the ground that the Applicant did not make the mandatory pre-deposit, as per Section 129E of the Customs Act, 1962. It is not disputed that being a mandatory condition the pre-deposit ought to have been made. Applicants have claimed that the requisite pre-deposit had been made and the Commissioner (Appeals) did not take the notice thereof while passing the impugned order. A copy of TR-6 Challan No. 002/17-18 dated 16.05.2017, evidencing the payment of pre-deposit has been placed on record. Subject to verification thereof, it would be in the interest of justice that the matter is remanded to Commissioner (Appeals) with a direction to decide the appeal afresh, on merits.

6. In view of the above, the revision application is allowed by way of remand to Commissioner (Appeals), with directions as above.



(Sandeep Prakash)

Additional Secretary to the Government of India

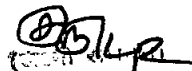
M/s Mec Shot Blasting Equipment Pvt. Ltd.,  
E-279, MIA,  
Basni Phase-II, Jodhpur (Rajasthan).

Order No. 216/21-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



(Anshu Raghavan)  
Section Officer  
सहायक सचिव (संजय विभाग)  
Secretary of Finance (Deptt. of Rev.)  
सचिव संजय / Govt. of India  
नई दिल्ली / New Delhi