

SPEED POST



F.No. 375/130/DBK/2018-RA
F.No. 375/130A/DBK/2018-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...14-10-21

Order No. 217-218/21-Cus dated 14-10-2021 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. 224-226(SM)CUS/JPR/2018 dated 01.08.2018 passed by the Commissioner (Appeals), CGST, Central Excise & Customs, Jaipur.

Applicant : M/s Jodhpur Craft Inc., Jodhpur

Respondent : The Commissioner of Customs, Jaipur.

ORDER

Revision Applications, bearing nos. 375/130/DBK/2018-RA and 375/130A/DBK/2018-RA both dated 06.11.2018, has been filed by M/s Jodhpur Craft Inc., 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 appeals filed by the Applicant against the Order-in-Original No. 590/2016-17 dated 31.01.2017 and Order-in-Original No. 601/2016-17 dated 31.01.2017 have been rejected on the ground that the Applicant did not make the mandatory pre-deposit, 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 23 Shipping Bills with the jurisdictional Customs authorities, and received a drawback amount of Rs.11,13,103/-. 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. 11,13,103/- along with interest, out of which the demand of Rs. 2,36,630/- was confirmed by the original authority, vide aforesaid Orders-in-Original both dated 31.01.2017. Aggrieved, the Applicant filed appeals before the Commissioner (Appeals) who, vide the impugned OIA dated 01.08.2018, rejected the appeals as non-maintainable on the grounds mentioned above.

3. The revision applications have been filed, mainly, on the ground that they had already made the pre-deposit vide challan No. 001/17-18 dated 29.05.2017 and 003/17-18 dated 05.06.2017 in respect of OIO 601/2016-17 and vide TR -6 Challan No. 002/17-18 dated 29.05.2017 in respect of OIO 590/2016-17, but the same were 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 BRC against Shipping bill No. 8728578 dated 01.05.2012 for USD 14787.36 (Date of realisation is 15.06.2012) has been placed on record; that BRC for Shipping Bill No. 1734823 dated 213.09.2012 is not available; that BRCs showing date of realisation as 11.10.2018 have been placed on record in respect of Shipping Bill Nos. 5002562 dated 17.04.2013, 5438454 dated 15.05.2013 and 5772925 dated 04.06.2013. The permission of RBI/AD bank for late realisation is not available. He further requested that revision applications may be decided keeping in view the above updated position.

5. The Government has examined the matter carefully. It is observed that the Commissioner (Appeals) has rejected the appeals 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. Copies of TR-6 Challan No. 001/17-18 dated 29.05.2017, No. 003/17-18 dated 05.06.2017 and No. 002/17-18 dated 29.05.2017, evidencing the payment of pre-deposit have 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 appeals afresh, on merits.

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



(Sandeep Prakash)

Additional Secretary to the Government of India


M/s Jodhpur Craft Inc.226,
Near Old Police Chowki,
Masuri Pal Road,
Jodhpur (Rajsthan)

Order No. 217-218/21-Cus dated 14-10-2021

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


(Anand Singh)
(Anand Singh)
Section Officer
जि.स. विभाग (राजस्व विभाग)
Ministry of Finance (Deptt. of Rev.)
सर्वकार / Govt. of India
दिल्ली / New Delhi