SPEED POST

F. No. 380/11/DBK/2016-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 24/1/23.

Order No. 23 /23-Cus dated 23.01.2023 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 129 DD of the Customs Act 1962 against the Order-in-Appeal No. C.Cus. I. No. 379/2015 dated 30.06.2015, passed by the Commissioner of Customs, (Appeals-I), Chennai.
Applicant	:	The Commissioner of Customs, Chennai-VII, Chennai.
Respondent	:	M/s Bhartiya International Ltd., New Delhi.

ORDER

A Revision Application, bearing no. 380/11/DBK/2016-RA dated 05.01.2016, has been filed by the Commissioner of Customs, Chennai – VII, Chennai (hereinafter referred to as the Applicant), against the Order-in-Appeal No. C.Cus. I. No. 379/2015 dated 30.06.2015, passed by the Commissioner of Customs (Appeals-I), Chennai. The Commissioner (Appeals) has allowed the appeal filed by M/s Bhartiya International Limited, New Delhi (hereinafter referred to as the Respondent), against the Order-in-Original No. 359/2015 dated 01.05.2015, passed by the Assistant Commissioner of Customs, Chennai-VII, Air Cargo Commissionerate.

2. Brief facts of the case are that the Respondents had exported Mens Leather Jackets, vide 04 Shipping Bills. The drawback claims of Rs. 16,82,359/- against the said Shipping Bills were processed as Zero (0) by the Applicant department and the Shipping Bills were moved to "History" status in EDI system. Subsequently, Respondent filed supplementary claims against the above said Shipping Bills. However, the original authority, vide the above mentioned Order-in-Original dated 01.05.2015, rejected the supplementary drawback claims as time barred, as the same were filed beyond the permissible time limit of 18 months, including extension period permissible, under Rule 15 of the Customs, Central Excise Duties & Service Tax Drawback Rules, 1995. Aggrieved, the Respondent herein filed an appeal before the Commissioner (Appeals), which was allowed with the directions to original authority to process the original drawback claim of the Respondent.

3.. The revision application has been filed, mainly, on the grounds that the Commissioner (Appeals) has erred in holding that the present case does not fall under the scope of the supplementary claim in terms of Rule 15 of Customs, Central Excise Duties and Service Tax Drawback Rules, 1995; and that the Commissioner (Appeals) has erred in holding that decision about zeroing of the claim was not served on the Respondents herein, as per Section 153 of the Customs Act, 1962.

4. Personal hearing in the matter was fixed on 08.12.2022, 21.12.2022 and 23.01.2023. Sh. Nitin Padhi, Superintendent appeared for the Applicant department and reiterated the contents of the revision application. No one appeared for the Respondent on any of the above mentioned dates. Since, sufficient opportunities have already been granted, the matter is taken up for final disposal based on records.

5. The Government has carefully examined the matter. At the outset, it is clear that the drawback claim in respect of the subject Shipping Bills filed by the Applicant was processed as 'zero' by the original authority without issuance of any Show Cause Notice and speaking order. In effect, the claims were rejected, without following the principles of natural justice. Thus, the order of the original authority to process the drawback claims as zero cannot be sustained. Since, the original claim itself was not decided in accordance with law, the subsequent processing and rejection of supplementary claim is also infructuous. In this light, the Government is in agreement with the Commissioner (Appeals) that the order of original authority could not be sustained. Consequently, the directions given by the Commissioner

(Appeals) to decide the original drawback claim after receiving the required documents from the claimant, i.e., the Respondent herein can not also be faulted.

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

(Sandeep Prakash)
Additional Secretary to the Government of India

The Commissioner of Customs,
Chennai-VII Commissionerate,
New Custom House,
Chennai-600027.

Order No. 23 /23-Cus dated 23.1.2023

Copy to:

1.M/s. Bhartiya International Ltd., E-52, New Manglapur, Mandi Road, Mehrauli, New Delhi-110030.
2.The Commissioner of Customs (Appeals-I) 60,Rajaji Salai, Custom House, Chennai-600001.
3.PA to AS(RA)
4.Guard File
5.Spare Copy
6.Notice Board

ATTESTED

23.01.2023

(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