

REGISTERED
SPEED POST



F.No. 375/41/DBK/2019-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 25/10/21...

Order No. 238 /21-Cus dated 25/10/2021 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 filed under section 129 DD of the Customs Act 1962 against the Order-in-Appeal No. NOI-CUSTOM-000-APP-2046-17-18 dated 28.03.2018, passed by the Commissioner (Appeals), Customs & Central Excise, Noida.

Applicant : M/s Dev Priya Industries Pvt. Ltd., Meerut

Respondent : Commissioner of Customs, Noida

ORDER

Revision Application No.375/41/DBK/2019-RA dated 30.05.2019 has been filed by M/s Dev Priya Industries Pvt. Ltd., Meerut (hereinafter referred to as the Applicant) against the Order-in-Appeal No. NOI-CUSTOM-000-APP-2046-17-18 dated 28.03.2018, passed by the Commissioner (Appeals), Customs & Central Excise , Noida. Commissioner (Appeals), vide the above mentioned Order-in-Appeal, has rejected the appeal of the Applicant, against the Order- in-Original No.06/AC/CUS/BRC CELL/ICD-LONI/2016 dated 27.12.2016 passed by the Assistant Commissioner of Customs, ICD, Loni, Ghaziabad.

2. Brief facts of the case are that the Applicant filed drawback claim in respect of 02 Shipping Bills Nos. 1664958 dated 19.03.2014 and 4960926 dated 15.04.2013, with the Assistant Commissioner of Customs, Drawback, ICD, Loni, Ghaziabad, for a total amount of Rs.92,142/-, which was sanctioned. Subsequently on scrutiny, it was observed by the office of Respondent that the Applicant had failed to submit the proof to the effect that the export proceeds in respect of the aforesaid Shipping Bills had been realized, in terms of Rule 16A of the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995. Accordingly, Show Cause Notice dated 07.05.2016 was issued to the Applicant and the demand of Rs. 92,142/- was confirmed by the original authority, vide aforesaid Order-in-Original 27.12.2016. A penalty of Rs. 50,000/- was also imposed under Section 117 of the Customs Act, 1962. Aggrieved, the Applicant filed an appeal before the Commissioner (Appeals), which was rejected.

3. The revision application has been filed, mainly, on the grounds that the subject remittances were received and the delayed realization thereof has been regularized by the AD Bank.

4. Personal hearing, in virtual mode, was held on 22.10.2021. Sh. Harbir Singh, Advocate appeared for the Applicant and reiterated the contents of the revision application. He highlighted that the remittance has been received and delayed realization thereof has been permitted on ex-post facto basis by the AD Bank vide letter dated 01.09.2017. None appeared on behalf of the respondent nor any request for adjournment has been received. Therefore, the case is being taken up for decision on the basis of available records.

4. The RA has been filed on 30.05.2019 when the impugned OIA was admittedly received on 27.06.2018. The delay has occurred due to filing an appeal in the CESTAT, as advised in the preamble of the impugned OIA, which was rejected as non-maintainable vide Final Order No. 70800/2019 dated 18.04.2019. The delay is condoned.

5. The Government has examined the matter carefully. It is contended by the Applicant that they had realized the export proceeds and that the time period for realizing the export proceeds was extended by the AD bank i.e. Oriental Bank of Commerce, Plot No. 5, Sector 32, Institutional Ara, Gurgaon vide their letter dated 01.09.2017, a copy whereof was submitted before the Appellate authority and at this stage also. Subject to verification of these documents, no case for recovery of

(Signature)
(Name)
(Designation)
(Date)
(Place)

drawback and penalty is made out. Accordingly, the matter is remanded to original authority to verify the BRCs and the post - facto extension letter issued by the AD Bank and to decide the matter afresh after following the principles of natural justice. If upon verification the contentions of the Applicant that the remittance has been received and that the time period for realization has been extended by the AD Bank ~~are~~ ^{is} found to be correct, the original authority shall close the subject matter against the Applicant and shall also grant consequential relief.

6. Accordingly, the orders of authorities below are set aside and revision application is allowed by way of remand to the original authority, with directions as above.


(Sandeep Prakash)

Additional Secretary to the Government of India


M/s Dev Priya Industries Pvt. Ltd.,
Village Saini, 8th km. Mawana Road,
Meerut 250002

Order No. 238 /21-Cus dated 25/10/ 2021

Copy to:

1. The Commissioner of Customs, Noida, Concor Complex, P.O. Container Depot, Greater Noida, Gautam Budh Nagar, Uttar Pradesh-201311 .
2. The Commissioner of Customs & Central Excise (Appeals), C-56/42, Renu Tower, Sector 62, Noida, Uttar Pradesh.
3. Sh. Harbir Singh, Advocate, 12, Shark Colony, Opposite Sai Plaza, Sardhana Road, Kankerhera, Meerut, Cantt (UP) 250001
4. PA to AS(RA)
5. Guard File.
6. Spare Copy

Attested


(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