

REGISTERED
SPEED POST



F.No. 375/48/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...27/10/21

Order No. 243/21-Cus dated 27-10-2021 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. LUD-EXCUS-001-APP-2344-2019 dated 30.04.2019, passed by the Commissioner (Appeals), Customs & CGST, Ludhiana.

Applicant : M/s Gagan Engineers, Ludhiana

Respondent : Commissioner of Customs, Ludhiana

ORDER

Revision Application No.375/48/DBK/2019-RA dated 17.07.2019 has been filed by M/s Gagan Engineers, Ludhiana (hereinafter referred to as the Applicant) against the Order-in-Appeal No. LUD-CUS-001-APP-2344-2019 dated 30.04.2019, passed by the Commissioner (Appeals), Customs & CGST, Ludhiana. Commissioner (Appeals), vide the above mentioned Order-in-Appeal, has partly allowed the appeal of the Applicant, against the order- in-Original No.42/DC/BRC/OWPL/LDH/2016 dated 28.03.2016 passed by the Deputy Commissioner of Customs, CFS, OWPL, Ludhiana.

2. Brief facts of the case are that the Applicant filed drawback claims in respect of 02 Shipping Bills Nos. 3200540 dated 26.12.2012 and 9528074 dated 23.06.2012, with the Deputy Commissioner of Customs, Drawback, CFS, OWPL, Ludhiana, for a total amount of Rs.3,39,248/-, 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 27.07.2015 was issued to the Applicant and the demand of Rs.3,39,248/- was confirmed by the original authority, vide aforesaid Order-in-Original dated 28.03.2016. Aggrieved, the Applicant filed an appeal before the Commissioner (Appeals), who vide the impugned OIA dropped the demand in respect of Shipping Bill No. 9528074 as the Applicant had submitted the copy of BRC evidencing that the export proceeds were realized within the stipulated period of twelve months.

However, the Commissioner (Appeals) rejected the appeal as far as its pertained to the Shipping Bill No. 3200540.

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

4. Personal hearing, in virtual mode, was held on 27.10.2021. Ms. Kanika Malhotra, Advocate appeared for the Applicant and submitted that the Commissioner (Appeals) had denied relief in respect of Shipping Bill No. 3200540 dated 26.12.2012 wherein the remittances were received after the stipulated period. In this regard she drew attention to the letter dated 08.07.2019 of the Union Bank of India, SSI Branch, Ludhiana wherein the Bank has certified that the date of realization of remittances against the subject Shipping Bill was extended from time to time. She, accordingly, prayed for relief. Sh. Chandra Mani, Superintendent appeared on behalf of the respondent department and submitted that the said letter dated 08.07.2019 is not on the record of the department.

5. The Government has examined the matter carefully. It is contended by the Applicant that they had realized the export proceeds in respect of the Shipping Bill No. 3200540 dated 26.12.2012 and that the time period for realizing the export proceeds was extended by the AD bank i.e. Union Bank of India, SSI Branch, Ludhiana, vide their certificate dated 08.07.2019, a copy whereof has been submitted. Subject to verification of the documents, no case for recovery of drawback and penalty is made

(Signature)
(Name)
(Designation)
(Department)
(Date)

out. Accordingly, the matter is remanded to the original authority to verify the BRC and the 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 found to be correct, the original authority shall close the subject matter against the Applicant.

6. Accordingly, the 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 Gagan Engineers,
Gurru Nanak Street,
No. 7, Shimla Puri Gill Road,
Ludhiana 141003.

Order No. 243 /21-Cus dated 27-10-2021

Copy to:

1. Commissioner of Customs , Container Freight Station, OWPL, C,-205, Phase – V, Focal Point Bhandhari Kalan, Ludhiana – 141010.
2. Commissioner (Appeals), Customs & CGST, F-Block Rishi Nagar, Ludhiana.
3. Sh. Sudhir Malhotra, Advocate, Chamber No. 103, C.K. Daphtary Lawyer's Chamber, Supreme Court of India, Bhagwan Das Road, new Delhi 110001
4. PS to AS(RA)
5. Guard File.
6. Spare Copy

Attested



(लेलोमी राघवण)
(Leelohmi Raghavan)
सुप्रीम कोर्ट / Section Officer
वित्त विभाग (राजस्व विभाग)
Ministry of Finance (Deptt. of Rev.)
भारत सरकार / Govt. of India
नई दिल्ली / New Delhi