

SPEED POST



F.No. 375/30/DBK/2022-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.....03/08/22

Order No. 254/22-Cus dated 03-08-2022 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. 364-Cus/APPL/LKO/2021 dated 16.12.2021, passed by the Commissioner (Appeals), Customs, CGST & Central Excise, Lucknow.

Applicant : M/s Suri Leathers, Kanpur.

Respondent : The Commissioner of Customs (Preventive), Lucknow.

**ORDER**

A Revision Application, bearing no. 375/30/DBK/2022-RA dated 26.05.2022, has been filed by M/s Suri Leathers, Kanpur (hereinafter referred to as the Applicant) against the Order-in-Appeal No. 364-Cus/APPL/LKO/2021 dated 16.12.2021, passed by the Commissioner (Appeals), Customs, CGST & Central Excise, Lucknow, vide which the appeal filed by the Applicant against the Order-in-Original No. 49/CUSTOMS/DEM/DC/ICD/JRY/KNP/2019 dated 25.09.2020 passed by the Deputy Commissioner, Customs, ICD J.R.Y., Kanpur has been rejected.

2. Brief facts of the case are that the Applicant filed drawback claims in respect of 06 Shipping Bills, with the jurisdictional Customs authorities for a total amount of Rs.6,10,314/-, which was sanctioned. However, subsequently, it 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, a show cause notice dated 11.03.2019 was issued to the Applicant and the demand of Rs. 1,56,037/- was confirmed (out of the total demand of Rs. 6,10,314/-), alongwith applicable rate of interest, by the original authority, vide the above mentioned Order-in-Original dated 25.09.2020. 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 remittance was received in time in respect of 02 shipping bills whereas in respect of

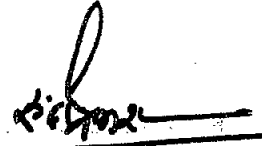
01 shipping bill the bank had granted extension of time; that the date of realisation reflected in BRCs was incorrect; that certificates to this effect issued by the Bank have been placed on record; and, therefore, the Order-in-Appeal cannot be sustained.

4. Personal hearing, in virtual mode, was held on 03.08.2022. Sh. Ashish Bansal, CA appeared for the Applicant and submitted that the AD Bank, i.e., Bank of Baroda has, vide letter dated 14.12.2021, certified the correct dates of realization of export proceeds. Bank has also separately certified that extension of time was granted in respect of Shipping Bill No. 7616833 dated 23.09.2013. Hence, the question of recovery of drawback does not arise. No one appeared for the Respondent department. No request for adjournment has also been received. Therefore, it is presumed that the department has nothing to add in the matter.

5. The Government has examined the matter carefully. It is contended by the Applicant that they had realized the export proceeds within time in respect of Shipping Bills No. 4149778 dated 25.02.2013 and 5693120 dated 30.05.2013. A certificate dated 14.12.2021 said to have been issued by the AD bank i.e. Bank of Baroda, International business branch, Kanpur has been placed on record, wherein the Bank has certified the correct date of realization of export proceeds as 02.09.2013 & 05.09.2013 (in respect of Shipping Bill No. 4149778 dated 25.02.2013) and 09.07.2014 (in respect of Shipping Bill No. 5693120 dated 30.05.2013). In respect of Shipping Bill No. 7616833 dated 23.09.2013, the remittance (except US\$ 925/-) is said to have been realized on 19.11.2013, 18.11.2014, 31.12.2014,

29.06.2015, 29.07.2015 & 23.10.2015. In respect of the Shipping Bill No. 7616833, an undated letter from the AD bank i.e. Bank of Baroda, International business branch, Kanpur, certifying therein that the period for realisation of export proceeds had been extended upto 17.12.2015, has also been placed on record. In view of this it will be in the interest of justice if the matter is remanded to the original authority to verify the above said certificates issued by the AD bank and pursuant to such verification decide the matter afresh, after following the principles of natural justice, as per law.

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 Suri Leathers,  
C-34, Sarvoday Nagar,  
Kanpur-208005.

Order No. 254/22-Cus dated 03-08-2022

Copy to:

1. The Commissioner of Customs (Preventive), 5<sup>th</sup> & 11<sup>th</sup> Floor, Kendriya Bhawan Aliganj, Lucknow-226024
2. The Commissioner (Appeals) Customs, GST & Central Excise 3/194, Vishal Khand, Gomti Nagar, Lucknow.
3. M/s. Shri Ashish Kr Bansal, C.A. 127/513, W-1, Saket Nagar, Kanpur-208014.
4. PA to AS(RA)
- ✓ 5. Guard File
6. Spare Copy

**Attested**  
21/08/2022  
