

REGISTERED
SPEED POST



F. No. 375/88/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...12-11-21

Order No. 258/21-Cus dated 12-11-2021 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-2406-2019 dated 10.05.2019, passed by the Commissioner (Appeals), Customs & CGST, Ludhiana.

Applicant : M/s Deepak Fasteners Ltd., Ludhiana

Respondent : The Commissioner of Customs, Ludhiana

ORDER

Revision Application No.375/88/DBK/2019-RA dated 31.12.2019 has been filed by M/s Deepak Fasteners Ltd., Ludhiana (hereinafter referred to as the Applicant) against the Order-in-Appeal No. LUD-EXCUS-001-APP-2406-2019 dated 10.05.2019, passed by the Commissioner (Appeals), Customs & CGST, Ludhiana. The Commissioner (Appeals), vide the above-mentioned Order-in-Appeal, has partly allowed the appeal of the Applicant, against the Order-in-Original No.41/DC/BRC/OWPL/LDH/2016 dated 23.03.2016 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 17 Shipping Bills filed during the period from 08.02.2012 to 30.12.2012, with the Deputy Commissioner of Customs, Drawback, CFS, OWPL, Ludhiana, for a total amount of Rs. 10,28,716/- 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 17.07.2015 was issued to the Applicant and the demand of Rs. 10,28,716/- along with applicable interest was confirmed by the original authority, vide the aforesaid Order-in-Original dated 23.03.2016. Aggrieved, the Applicant filed an appeal before the Commissioner (Appeals), who vide the impugned OIA dropped the demand in respect of 09 Shipping Bills, as the Applicant had submitted the copies of BRCs evidencing that the export proceeds were realized within the extended period as allowed by the AD Bank vide letter dated 14.03.2016. However, the Commissioner (Appeals) rejected the appeal as far as it pertained to remaining 08 Shipping Bills No. 2241275 dated 18.10.2012, 2290853 dated 22.10.2012, 2385314 dated 30.10.2012 (as per OIO dated 23.03.2016)/ 30.12.2012 (as per OIA dated 10.05.2019), 2703970 dated 22.11.2012,

2998704 dated 12.12.2012, 3016868 dated 13.12.2012, 3099386 dated 19.12.2012 and 3126057 dated 20.12.2012.

3. The revision application has been filed, mainly, on the grounds that the subject remittance in respect of remaining 08 Shipping Bills, has also been received and the delayed realization thereof has been regularized by the AD Bank vide letter signed on 02.07.2019.

4. Personal hearing, in virtual mode, was held on 12.11.2021. Sh. Kulbhusan, Export Manager appeared for the Applicant and submitted that their appeal before the Commissioner (Appeals) was not allowed in respect of 08 Shipping Bills as extension of time for realization of export proceeds was not available. In this regard, he drew attention to a copy of the letter signed on 02.07.2019 by the Oriental Bank of Commerce, Overseas Branch, Jandu Tower, G. T. Road, Ludhiana wherein it is stated that period of realization of export proceeds in respect of the said shipping bills was extended upto 30.06.2014. He accordingly requested that the RA may be allowed. Sh. Chandra Mani, Superintendent appeared on behalf of the respondent department and submitted that the said letter of the Bank is not on the department's record.

5. The revision application has been filed with a delay as the Applicant initially filed an appeal before the CESTAT, which has been rejected as non-maintainable vide Final Order No. 61118/2019 dated 02.12.2019. Delay is condoned.

6. The Government has examined the matter carefully. It is contended by the Applicant that they had realized the export proceeds in respect of remaining 08 Shipping Bills and that the time period for realizing the export proceeds was extended by the AD bank i.e., Oriental Bank of Commerce, Overseas Branch, Ludhiana, vide their letter dated 02.07.2019, a copy whereof has been submitted. Accordingly, the matter is remanded to the original authority to verify the BRCs 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 full remittance has been received and that the time period for realization has been extended by the AD Bank, in accordance with law, are found to be correct, the original authority shall close the subject matter against the Applicant.

7. 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 Deepak Fasteners Ltd.,
Doraha, Factory Unit, Village Jaspalon,
G. T. Road, Doraha, Ludhiana 141-421.

Order No. 258/21-Cus dated 12-11-2021

Copy to:

1. Commissioner of Customs, Container Freight Station, OWPL, C-205, Phase – V, Focal Point, Dhandhari Kalan, Ludhiana – 141010.
2. Commissioner (Appeals), Customs & CGST, F-Block Rishi Nagar, Ludhiana.
3. PS to AS(RA)
4. Guard File.
5. Spare Copy

Attested



(लक्ष्मी राघवन)
(Lakshmi Singh)
अनुभाग अधिकारी / Section Officer
वित्त मंत्रालय (राजस्व विभाग)
Ministry of Finance (Dept. of Rev.)
भारत सरकार / Govt. of India
नई दिल्ली / New Delhi