

SPEED POST



F. No. 375/22/DBK/2022-R.A.
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.. 18/8/22

Order No. 272/22-Cus dated 18-8-2022 of the Government of India, passed by Sh. Sandeep Prakash, Additional Secretary to the Government of India, under Section 129DD of the Customs Act, 1962.

SUBJECT : Revision Application filed under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal No. CC(A)/Cus/D-II/ICD/PPG/1215/2020-21 dated 21.12.2020, passed by Commissioner of Customs (Appeals), New Custom House, New Delhi.

APPLICANT : M/s. Innovative Crafts through its Proprietor Mrs. Meena Aggarwal, Moradabad.

RESPONDENT : The Commissioner of Customs (ICD), Patparganj, New Delhi.

ORDER

A Revision Application No.375/22/DBK/2022-RA dated 18.05.2022 has been filed by M/s. Innovative Crafts through its Proprietor Mrs. Meena Aggarwal, Moradabad (hereinafter referred to as the Applicant) against the Order-in-Appeal No. CC(A)/Cus/D-II/ICD/PPG/1215/2020-21 dated 21.12.2020, passed by the Commissioner of Customs (Appeals), New Custom House, New Delhi. Commissioner (Appeals), vide the above mentioned Order-in-Appeal, has rejected the appeal of the Applicant, against the Order in Original No. 97/ADC/ICD/PPG/2018, dated 31.01.2018 passed by the Additional Commissioner of Customs, Inland Container Depot, Patparganj, Delhi.

2. Brief facts of the case are that, on the basis of an information received from the IndusInd Bank, Moradabad Branch that the Applicant had multiple receipts in their bank accounts which were claimed to be duty drawback receipts, an enquiry was conducted. On investigation, it was alleged by the Respondent department that the exported goods were purchased from another firm, namely, M/s Maxwall Impex, which turned out to be non existent. Further, amount said to have been received as export proceeds against the subject exports was not from the consignees but from third party and the Applicant could not produce any documentary proof that these payments were authorized by the consignee. Accordingly, a show cause notice dated 27.06.2017 was issued to the Applicant for the recovery of drawback availed amount of Rs. 79,45,653/-, in terms of Rule 16/16A of the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995, read with the provisions of Section 76(1)(b) of the Customs Act, 1962, along with the interest as applicable under Section 75A(2) read with Section 28AA of the Act, *ibid.*, which was confirmed by the Additional Commissioner of Customs, ICD, Patparganj, Delhi, vide the above mentioned Order-in-Original dated 31.01.2018. Penalty of Rs. 1,50,00,000/- was also imposed on the Applicant under Section 114AA of the Custom Act, 1962. Aggrieved, the Applicant filed an appeal before the Commissioner (Appeals), which has been rejected.

3. The revision application has been filed, mainly, on the grounds that the bank in their statements before the Customs authorities had stated that the Applicant had declared the relationship between the third party remitter and the actual buyer; that they were satisfied with the bonafide of the parties involved in the transaction prima facie; that they will submit the third party inward remittances including the third party agreement to the Customs authorities; and that the penalty under Section 114AA is not imposable as no false or incorrect material or documents was used or furnished by them.

4. Personal hearing, in virtual mode, was held on 03.08.2022. Sh. Akhil Maggu, Advocate appeared for the Applicant and reiterated the contents of the revision application. Upon being asked, Sh. Maggu confirmed that to the best of their knowledge bank has not submitted the documents pertaining to the third party remittances to the department. Ms. Sheela Ahuja, Superintendent appearing for the department requested for a short adjournment. Accordingly, matter was against posted for hearing on 05.08.2022 and thereafter on 18.08.2022. Sh. Akhil Maggu, Advocate appeared for the Applicant on both the dates but none appeared for the Respondent department. Since, sufficient opportunities have already been granted, it is presumed that the department has nothing to add in the matter.

5. Government has carefully examined the matter. It is the contention of the Respondent department that the money said to have been received as export proceeds was not from the consignee but from the third party which was not mentioned as notifier before the Customs authorities at the time of filing of Shipping Bills. The Commissioner (Appeals) has noted that an amount of US\$1,21,886.60 out of total proceeds of US\$ 11,25,500.64 had been received from the consignee M/s Metal Masters and rest of the payment was received from 3 other entities, which were not notified as third party in the export documents. It is on record that the Applicant and the Bank have failed to submit any documents to support these third party payments. It has also been brought out that the entity from whom the export goods are said to have been purchased was non-existent. The details provided, such as PAN, were found to be incorrect. In these facts and circumstances, the Government does not find any infirmity in the impugned OIA.

6. The Revision Application is rejected.


(Sandeep Prakash)

Additional Secretary to the Government of India

M/s. Innovative Crafts Proprietor Mrs. Meena
Aggarwal, Laxmi Niwas, Civil Lines, Near
Commissioner Office, Moradabad-244001(UP)

Order No. 272/22-Cus dated 18-8-2022

Copy to:-

1. The Commissioner of Customs (ICD), Patparganj, New Delhi-110096.
2. The Commissioner of Customs (Appeals), New Custom House, Near IGI Airport, New Delhi 110037.
3. Sh. Akhil Krishan Maggu, Advocate, G-25A, flat No. 1, LGF Basement, Vishkarma Colony, Pul Pehladpur, New Delhi-110044.
4. P.S. To A.S (RA)
5. Guard File
6. Spare Copy

ATTESTED



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