

REGISTERED
SPEED POST



F.No. 375/49/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... 09/12/21

Order No. 28/21-Cus dated 09-12-2021 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 under Section 129 DD of the Customs Act 1962 against the Order-in-Appeal No. 67(SLM)CUS/JPR/2015 dated 29.06.2015 passed by the Commissioner (Appeals), Customs & Central Excise, Jaipur.

Applicant : M/s Zapp India Pvt. Ltd., Jaipur.

Respondent : The Commissioner of Customs, Jaipur.

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ORDER

A revision application No. 375/49/DBK/2019-RA dated 18.07.2019 has been filed by M/s Zapp India Pvt. Ltd., Jaipur (hereinafter referred to as the Applicant) against the Order-in-Appeal No. 67(SLM)CUS/JPR/2015 dated 29.06.2015, passed by the Commissioner (Appeals), Customs & Central Excise, Jaipur. Commissioner (Appeals) has upheld the Order-in-Original No. 143/2014-15 dated 02.06.2014 passed by the Deputy Commissioner of Customs, Air Cargo Complex, Jaipur.

2. Briefly stated, the Applicant herein had exported goods under Shipping Bill Nos. 623 dated 27.05.2011, 631 dated 28.05.2011 & 770 dated 05.07.2011 from the Air Cargo Complex, Jaipur, under claim of drawback, totally amounting to Rs. 84,467/-, which was sanctioned. Subsequently, on scrutiny, the department found that the evidence of realization of export proceeds had not been submitted. Therefore, a show cause notice dated 24.04.2014 was issued and a demand of drawback of Rs. 84,467/- was confirmed alongwith applicable interest in terms of Rule 16/16A of the Customs and Central Excise Duties & Service Tax Drawback Rules, 1995 read with Section 75A (2) of the Customs Act, 1962. A penalty of Rs. 22,000/- was also imposed under Section 117 ibid. The appeal filed by the Applicant herein was rejected by the Commissioner (Appeals). It appears that the Applicant challenged the impugned Order-in-Appeal before CESTAT, New Delhi, which was dismissed as non-maintainable, vide interim Order No. 24/2016-CR dated 19.08.2016. Thereafter, the present revision application has been filed on 18.07.2019.

3. The revision application urges no grounds of appeal. A condonation of delay application has also been filed on 02.09.2019 requesting for condonation of delay of 4 years and 12 days.

4. Personal hearing was granted on 27.10.2021, 22.11.2021 & 08.12.2021. However, no one appeared for Applicant and the Respondent department. No request for adjournment has also been received. Since sufficient opportunities have been granted, the matter is taken up for disposal based on records.

5. The Government has examined the matter carefully. The revision application has been filed on 18.07.2019 against the Order-in-Appeal dated 29.06.2015, which was admittedly received by the Applicant on 07.07.2015. As per sub-section (2) of Section 129DD of the Customs Act, 1962, an application under sub-section (1), i.e., the revision application, shall be made within three months from the date of communication of the order against which the application is being made. However, the Central Government may, if it is satisfied that the applicant was prevented by

sufficient cause from presenting the application within the aforesaid period of three months, allow it to be presented within a further period of three months. Therefore, a revision application can be filed within a maximum period of six months from the date of communication of the order passed by the Commissioner (Appeals), including the condonable period of three months. In the present case, the revision application has been filed with a delay of 04 years & 12 days. Therefore, even if the time taken in pursuing a remedy in wrong forum, i.e., CESTAT, is excluded, the delay is beyond the condonable period of 03 months. Further, the Government, acting as a statutory authority under Section 129DD ibid, cannot condone the delay beyond the statutorily provided condonable period. As such, the revision application is liable to be rejected as barred by limitation. The Government further observes that the revision application has been filed without urging any grounds for revision and it merely consists of factual details in Form No. CA-8 alongwith copies of certain documents. Therefore, this application also appears to be a proforma exercise.

6. The revision application is rejected, for the reasons aforesaid.


(Sandeep Prakash)
Additional Secretary to the Government of India

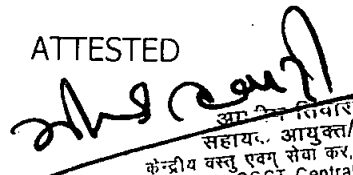
M/s Zapp India Ltd.,
Saraf House, M.I. Road,
Jaipur-302 001.

Order No. 281/21-Cus dated 09-12-2021

Copy to:

1. The Commissioner of Customs, Jaipur, New Central Revenue Building, Statue Circle, "C" Scheme, Jaipur – 302 005.
2. The Commissioner (Appeals), Customs & Central Excise, New Central Revenue Building, Statue Circle, Jaipur – 302 005.
3. The Deputy Commissioner, Office of the Deputy Commissioner of Customs, Air Cargo Complex, Sanganer, Jaipur (Rajasthan) – 302 029.
4. PA to AS(RA).
5. Guard File.
6. Spare Copy.

ATTESTED


ASHISH TIWARI, I
सहायक आधुक्त/ Assistant Commissioner
केन्द्रीय वस्तु एवं सेवा कर, केन्द्रीय उत्पाद एवं सीमा शुल्क
CEST, Central Excise & Customs
राजस्व विभाग / Department of Revenue
वित्त मंत्रालय / Ministry of Finance
भारत सरकार / Government of India
नई दिल्ली / New Delhi