

REGISTERED  
SPEED POST



F.No. 375/47/DBK/2019-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. 22/12/21

Order No. 292/21-Cus dated 22/12/2021 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. LUD-EXCUS-001-APP-2292-2293-2019 dated 10.04.2019 passed by the Commissioner (Appeals), Customs & CGST, Ludhiana.

Applicant : M/s Omsons International, Jalandhar.

Respondent : The Commissioner of Customs, Ludhiana.

**ORDER**

A revision application No. 375/47/DBK/2019-RA dated 12.07.2019 has been filed by M/s Omsons International, Jalandhar (hereinafter referred to as the Applicant) against the Order-in-Appeal No. LUD-EXCUS-001-APP-2292-2293-2019 dated 10.04.2019, passed by the Commissioner (Appeals), Customs & CGST, Ludhiana, vide which the appeal filed by the Applicant against the Orders-in-Original Nos. 20/AC/CFS/JAL/2015 dated 30.11.2015 and 21/AC/CFS/JAL/2015 dated 30.11.2015, passed by the Assistant Commissioner of Customs, CFS/ICD Nurpur, Jalandhar, has been rejected.

2. Brief facts of the case are that the Applicant filed drawback claims in respect of Shipping Bill Nos. 8378986 dated 11.11.2013 and 5278026 dated 04.05.2013, with the jurisdictional customs authorities, for a total amount of Rs. 6,89,733/-, which were 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, two Show Cause Notices, both dated 10.12.2014, were issued to the Applicant and the demand of Rs. 3,86,702/- and of Rs.3,03,031/- alongwith applicable interest was confirmed by the original authority, vide the aforesaid Orders-in-Original. Aggrieved, the Applicant filed an appeal before the Commissioner (Appeals), which was rejected noting that the appeal had been filed with a delay of 3 days and no condonation of delay application was filed before the Commissioner

(Appeals) justifying the cause of such delay. Further, the export proceeds in the case were not realized within the stipulated time period nor any extension from the competent authority extending the realization period for export proceeds was submitted.

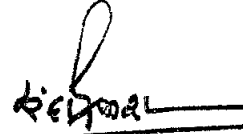
3. The revision application has been filed, mainly, on the grounds that the export proceeds could not be realized as the consignee had expressed difficulties in remitting the payments due to heavy devaluation of currency in their country i.e. the country to which goods were exported; and that return of the drawback amount will result in further accumulation of their losses.

4. Personal hearing, in virtual mode, was held on 22.12.2021. Sh. Satish Chandra Batra, authorized representative appeared for the Applicant and reiterated the contents of revision application. Upon being asked he confirmed that the foreign remittances had not been received, till date, and that no extension had been granted by the Reserve Bank of India/AD Bank. Sh. Kuldip Raj, Assistant Commissioner appeared for the respondent department and supported the orders of the lower authorities.

5. The Government has examined the matter carefully. Admittedly, the export proceeds have not been realized, till date. Government observes that, in terms of the second proviso to Section 75(1) of the Customs Act, 1962, where any drawback has been allowed on any goods and sale proceeds in respect of such goods are not

received within the time period allowed under FEMA, 1999, such drawback shall be deemed never to have been allowed. Further, as per Rule 16A(1) ibid, the drawback is recoverable if the export proceeds are not realized within the period allowed under the Foreign Exchange Management Act, 1999, including any extension of such period. In the instant case, export proceeds have not been realized within the period allowed nor has the extension been granted by the competent authority under FEMA. Thus, there is no doubt that the drawback paid to the Applicant is recoverable along with applicable interest..

6. In view of the above, the revision application is rejected.



(Sandeep Prakash)

Additional Secretary to the Government of India

M/s Omsons International,  
Omsons House, Model House Road,  
Basti Sheikh, Jalandhar City – 144 002.

Order No. 292 /21-Cus dated 22/12/2021

Copy to:

1. The Commissioner of Customs, Ludhiana, Customs House, ICD, GRFL Complex, G.T. Road, Sahnewal, Ludhiana – 141 120.
2. The Commissioner (Appeals), Customs & CGST, F-Block, Rishi Nagar, Ludhiana – 141 001.
3. PA to AS(RA).
4. Guard File.
5. Spare Copy.

ATTESTED



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