

SPEED POST



F.No. 373/14/DBK/2015-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.....26/9/22

Order No. 299/22-Cus dated 26-09-2022 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. 240/2014 (M-III) dated 08.10.2014, passed by the Commissioner of Central Excise (Appeals), Chennai.

Applicant : M/s Althaf Shoes (P) Ltd., Ambur.

Respondent : Commissioner of CGST & Central Excise, Chennai (Outer).

ORDER

A Revision Application, bearing no. 373/14/DBK/2015-RA dated 12.01.2015, has been filed by M/s Althaf Shoes (P) Ltd., Ambur (hereinafter referred to as the Applicant), against the Order-in-Appeal No. 240/2014(M-III) dated 08.10.2014, passed by the Commissioner of Central Excise (Appeals), Chennai, vide which the appeal filed by the Applicant against the letter No. VIII/20/5//2012/DBK dated 25.03.2013, issued by the Additional Commissioner of Central Excise, Chennai-III Commissionerate, has been rejected.

2. Brief facts of the case are that the Applicant had filed an application for fixation of brand rate of drawback under Rule 6(1)(a) of Customs, Central Excise & Service Tax Drawback Rules, 1995 for the export of goods, i.e., leather insole (socks) made from cow socks, leather/lining leather and synthetic socks made from synthetic material falling under Chapter sub heading 64069910. Original authority, vide letter dated 25.03.2013, rejected the application for fixation of brand rate of drawback, filed by the Applicant, on the ground that the claim suffered from material deficiencies such as failure to provide proof regarding the receipt of raw material in the manufacturing unit, failure to produce copies of Bills of Entry, non mentioning of procurement and stock details in the DBI-II & III statement and shortage in the quantity of material received in the factory to that of the quantity claimed as consumed in the manufacture of exported socks/insole, to process the claim for drawback. Aggrieved, the Applicant filed an appeal before the Commissioner (Appeals), who vide the impugned OIA dated 08.10.2014, rejected the appeal.

3. The instant revision application has been filed, mainly, on the grounds that the necessary documents had been submitted along with the application in the prescribed format and also from time to time when called upon by the verification officer, including the stock records and written explanations.

4. Personal Hearing, in virtual mode, was held on 26.09.2022. Sh. A.R. Raghunathan, CA appeared for the Applicant and reiterated the contents of the revision application. He highlighted that the Applicant was not given any opportunity to explain/show compliance with the deficiencies noticed by the department before the claim was rejected by the Additional Commissioner. Hence, matter could be remanded to the original authority for de-novo consideration. Sh. Arulamudhu, Superintendent appeared for the Respondent department and stated that the verification was made on the basis of documents available on record. He, accordingly, supported the orders of lower authorities.

5. The Government has examined the matter carefully. It is observed that the original authority had rejected the application for fixation of brand rate of drawback, based upon the deficiencies brought out in the verification reports dated 11.04.2012 and 18.02.2013 submitted by the jurisdictional Assistant/Deputy Commissioner of Central Excise. These deficiencies are brought out in the paras 6, 7,8 & 9 of the letter dated 25.02.2013 of the original authority. It is further observed that the deficiencies brought out are purely factual in nature. However, the Applicant herein was given no opportunity to negate/explain these deficiencies by the original authority. Therefore,

the Government holds that it would be in the interest of justice that the matter is remanded to the original authority for decision afresh, after following the principles of natural justice and after granting reasonable opportunity of hearing to the Applicant. Keeping in view the fact that the matter is almost 10 years old, the original authority is directed to decide the matter afresh as expeditiously as possible but not later than within 12 weeks from the date of receipt of this order.

6. The revision application is, accordingly, allowed by way of remand to the original authority, with directions as above.



(Sandeep Prakash)

Additional Secretary to the Government of India

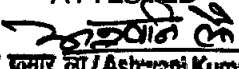
M/s Althaf Shoes (P) Ltd,
No. 64, Komeswaram, MC road,
Ambur 635802, Vellore District.
Tamilnadu.

Order No. 299/22-Cus dated 26-09-2022

Copy to:

1. The Commissioner of CGST & Central Excise, Chennai (Outer), No. 2054-III, Avenue, 12th Main Road, Newry towers, Anna Nagar, Chennai - 600034.
2. The Commissioner (Appeals), Central Excise & CGST (Appeals II), Chennai, No. 2054-III, Avenue, 12th Main Road, Newry towers, Anna Nagar, Chennai - 600034
3. PA to AS(RA)
4. Guard File
5. Spare Copy

ATTESTED


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