

REGISTERED
SPEED POST



F. No. 373/107/DBK/11-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.. 25/10/22

Order No. 325/22-Cus Dated 25-10-2022 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 129 DD of the Customs Act, 1962, against the Order-in-Appeal No. 22/2011 dated 20-04-2011, passed by the Commissioner of Central Excise & Service Tax (Appeals), LTU, Chennai.

Applicant : M/s. Hyundai Motor India Ltd., Sriperumbudur, Tamilnadu.

Respondent : Commissioner of Customs, Chennai-IV, Chennai.

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ORDER

The instant proceedings have been undertaken in due compliance of the Order dated 04.08.2021 of Hon'ble Madras High Court in the Writ Petition No. 6950/2013, whereby the GOI Order No. 313/2012-Cus dated 01.08.2012 has been quashed and the matter has been remanded back to the revisionary authority.

2. A Revision Application No. 373/107/DBK/2011-RA dated 15.07.2011 was filed by M/s. Hyundai Motor India Ltd., Sriperumbudur, Tamilnadu (hereinafter referred to as the Applicant), against the Order-in-Appeal No. 22/2011 dated 20.04.2011, passed by the Commissioner of Central Excise & Service Tax (Appeals), LTU, Chennai. The Commissioner (Appeals) had rejected the appeal filed by the Applicant herein, against the Order No. VII/20/01/2008-LTU-LTG.I dated 09.09.2010, passed by the Additional Commissioner of Central Excise, LTU, Chennai. Aggrieved, the Applicant filed a revision application, which was disposed off, vide GOI Order No.313/12-Cus dated 01.08.2012, and the matter was remanded to the original authority with certain directions. The Applicants herein thereafter approached the Hon'ble Madras High Court in WP No. 6950/2013, which has culminated in the aforesaid Order dated 04.08.2021.

3. Brief facts of the case are that, during the period from September 2007 to June 2009, the Applicant herein filed 22 applications for fixation of brand rate of drawback with the jurisdictional Commissioner of Central Excise/LTU, Chennai under revised simplified scheme in terms of Board's D.O. Letter F.No. 609/110/2005-DBK dated 26.08.2005. The total amount of drawback claimed in these applications was to the tune of Rs. 297,51,88,024/-. The sanctioning authority provisionally sanctioned a sum of Rs.

295,61,53,896/- as drawback which was paid to the Applicant, subject to post-facto verification. The original authority, i.e., the Additional Commissioner of Central Excise, LTU, thereafter took up verification of the said 22 claims and called for information and documents towards finalization of the Drawback sanctioned provisionally. The Adjudicating Authority, vide letter C.No. VIII/20/01/2008 LTU dated 05.03.2010, pointed out certain discrepancies in the Drawback claims, which were noticed during scrutiny, and it was observed that a sum of Rs. 75,98,38,529/- was sanctioned in excess. The Applicant was, accordingly, called upon to explain/clarify the discrepancies pointed out so as to enable finalization of the drawback claims, in terms of the provisions contained in Rule 7 of Customs, Central Excise Duties and Service Tax Drawback Rules, 1995 read with revised scheme of fixation of brand rate of Drawback under simplified scheme. Original authority, vide Order dated 09.09.2010, finalized the drawback claim of the Applicant to the tune of Rs. 215,88,07,686/- only and ordered that a sum of Rs. 79,73,46,210/- is recoverable from the Applicant, in terms of Rule 16 of the Drawback Rules read with relevant provisions of the Customs Act, 1962. Aggrieved, the Applicant filed an appeal before the Commissioner (Appeals), which was rejected. As brought out hereinabove, the instant revision application was originally disposed off, vide GOI Order No. 313/2012-Cus dated 01.08.2012, and the matter was remanded to the original authority with certain directions. Against the GOI Order dated 01.08.2012, the Applicant filed a Writ petition No. 6950/2013, before the Hon'ble Madras High Court leading to present proceedings on remand. However, in the meantime, in pursuance of the GOI Order dated 01.08.2012, the original authority re-determined the brand rate of drawback payable to the Applicant at Rs. 2,58,53,92,338/-, vide Sanction Order No. VIII/20/279/2010/LTU-BRFC-CH.IV dated 21.11.2019, and the differential amount of Rs. 42,65,84,652/- was paid to the Applicant.

4. Personal hearing was held, on 19.10.2022, in virtual mode. Sh. R. Srinivasan, Consultant appeared for the Applicant and submitted that pursuant to the GOI Order No. 313/2012-Cus dated 01.08.2012, the matter has been decided de-novo by the Original Authority, vide letter F.No. VIII/20/279/2010/LTU-BRFC-LH.IV dated 21.11.2019. The original authority has in the de-novo proceedings sanctioned drawback of Rs. 258,53,92,338/-, which decision has been accepted by them. This position had inadvertently remained to be brought to the notice of Hon'ble High Court, while obtaining Order dated 04.08.2021 in CWP No. 6950 of 2013. Sh. Srinivasan submitted that in view of the subsequent developments the revision application has become infructuous and the matter may be disposed of accordingly. He shall be confirming this position in writing as well. Sh. M. Ezhilarasan, Assistant Commissioner appeared for the Respondent department and submitted that the drawback was sanctioned in de-novo proceedings with the consent of the Applicant. Hence the matter is infructuous. Subsequently, a letter dated 19.10.2022 has been received from the Applicant stating therein that the Order dated 21.11.2019 redetermining the eligible duty drawback at Rs. 258,53,92,338/- has been accepted by them and the department and, as such, has attained finality. It has, accordingly, been requested that the proceedings may be disposed off by confirming the Order dated 21.11.2019.

5. The Government has examined the matter carefully. The instant revision application involves a dispute regarding brand rate of drawback admissible to the Applicant herein. Originally an amount of Rs. 295,61,53,896/- was provisionally sanctioned and paid to the Applicant against their claim of Rs. 297,51,88,024/-. After verification, the final amount admissible was found to be Rs. 215,88,07,686/- and excess amount paid was recovered. Subsequently, in the remand proceedings pursuant to the GOI Order dated 01.08.2012,

the original authority revised the finally admissible amount as Rs. 258,53,92,338/-. It is observed that the verification report prepared by the Assistant Commissioner of Customs, Cuddalore that formed the basis of finalization of revised amount of Rs. 258,53,92,338/- was accepted by the Applicant, vide letter HMI/DBK/JSRA dated 14.11.2019. It is also admitted by the Applicants, in the personal hearing as well as in writing, that they have accepted the decision of original authority in the de-novo proceedings. The Respondent Department has also confirmed these facts. Accordingly, both the parties have contended that, in view of these developments, the instant proceedings have been rendered infructuous. In the conspectus of these facts, the Government observes that the final determination of drawback amount, by the original authority vide letter dated 21.11.2019, has been accepted on merits, by the Applicant. Hence, no lis survives for determination in the instant proceedings and the Order, vide letter F.No. VIII/20/279/2010/LTU-BRFC-LH-IV dated 21.11.2019, has acquired finality.

6. In view of the above, the revision application is disposed of, in the remand proceedings, in above terms.



(Sandeep Prakash)

Additional Secretary to the Government of India

M/s. Hyundai Motor India Ltd.,
Plot No. H-I, SIPCOT Industrial park,
Irungattukottai, Sriperumbudur Taluk,
Kanchipuram Dt., Tamilnadu- 602117.


Order No. 325/22-Cus dated 25-10-2022

Copy to:

1. The Commissioner of Customs, Chennai-IV, Chennai, Custom House, No. 60 Rajaji Salai, Chennai- 600001.

2. The Commissioner of Customs, (Appeals), Custom House, No. 60 Rajaji Salai, Chennai- 600001.
3. PA to AS (RA).
4. Guard File.
5. ✓ Spare Copy.

ATTESTED



25.10.22

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