

SPEED POST



F. No. 373/90/DBK/2016-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. 12/12/22

Order No. 380/22-Cus dated 12-12-2022 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 filed Section 129 DD of the Customs Act 1962 against the Order-in-Appeal C.Cus. I. No. 135/2016 dated 29.02.2016, passed by the Commissioner of Customs, (Appeals-I), Chennai.

Applicant : M/s S.P. Apparels Ltd., Tirupur.

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

ORDER

A Revision Application, bearing no. 373/90/DBK/2016-RA dated 11.05.2016, has been filed by M/s S.P. Apparels Ltd., Tirupur (hereinafter referred to as the Applicant), against the Order-in-Appeal C.Cus. I. No. 135/2016 dated 29.02.2016, passed by the Commissioner of Customs, (Appeals-I), Chennai. The Commissioner (Appeals) has rejected the appeal filed by the Applicant herein, against the letter F. No. SUPP/08/60-67/2013-DBK (AIR) dated 11.12.2015, issued by the Deputy Commissioner of Customs (DBK-AIR), Air Cargo Complex, Meenambakkam, Chennai – VII Commissionerate, Chennai.

2. Brief facts of the case are that the Applicant had exported Readymade Garments vide 08 Shipping Bills during the year 2011. The drawback claims of Rs. 2,73,748/- against the said Shipping Bills were processed as Zero (0) by the Respondent department. All 08 Shipping Bills were thereafter moved to "History" status in EDI system. The Applicant, vide letter dated 16.07.2013, requested the Respondent department to release the Drawback against the above said 08 Shipping Bills as they had subsequently filed supplementary claims. However, the Respondent department, vide letter dated 11.12.2015, informed the Applicant that the supplementary drawback claims were filed beyond the permissible time limit of 18 months including extension, and the same were rejected as ^{Such is}. Aggrieved, the respondent filed an appeal before the Commissioner (Appeals), which was rejected.

3. The revision application has been filed, mainly, on the grounds that the supplementary claims were filed on 21.11.2022 and the payment of Application fee of Rs. 16,000/- for filing supplementary claims was made on 10.06.2014 as per

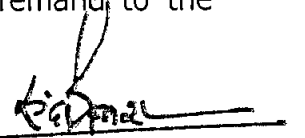
department's instructions. Hence, the supplementary claims were filed within the permissible limit of extension. As such, the claims could not have been rejected on the grounds of limitation.

4. Personal hearing (in virtual mode) was held on 12.12.2022. Sh. M. Karthikeyan, Manager appeared for the Applicant and stated that the drawback claims were made zero without following the principles of natural justice and no speaking order was issued. Therefore, the rejection of claim itself cannot stand. Further, the zeroing of drawback claims was never formally intimated to them whereas the authorities have treated the dates when claims were made zero on the System for counting limitation. This is also grossly unjust. No one appeared for the Respondent department and no request for adjournment has been received. Therefore, it is presumed that the department has nothing to add in the matter.

5. The Government has carefully examined the matter. At the outset, it is clear that the drawback claims in respect of 08 Shipping Bills filed by the Applicant were processed as 'zero' by the original authority without issuance of any Show Cause Notice etc. In effect, the claims were rejected, without following the principles of natural justice. Thus, the order of the original authority to process the drawback claims as ZERO cannot be sustained on this ground alone. Further, from the letter dated 04.12.2015 of the lower authority and the Order of Commissioner (Appeals), it appears that the time period for counting the limitation for filing the supplementary claims was taken from the date when the drawback claims were made zero on the system i.e., 16.12.2011 & 27.09.2011. As brought out hereinabove, no speaking

order was issued in this regard. There is also nothing on record to indicate the date when fact of processing of claims to 'zero' was actually communicated to the Applicant herein. Therefore, the limitation could not have been counted with reference to the aforesaid dates. As such, the orders of the lower authorities cannot be sustained on this ground also. In these peculiar facts and circumstances of the case, it would be in the interest of justice that the matter is remanded to the original authority for deciding the original drawback claims of the Applicant afresh after following the principles of natural justice.

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



(Sandeep Prakash)

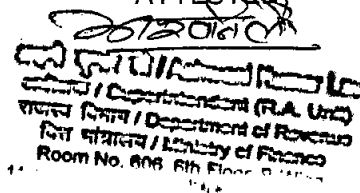
Additional Secretary to the Government of India

M/s. S.P. Apparel Ltd,
39-A, Extension Street, kaikattipundur,
Avinashi, Tirupur District-641654.

Order No. 380 /22-Cus dated 12 -12-2022

Copy to:

1. The Commissioner of Customs, Chennai-VII, (Air Cargo), New Customs Hosue, Air Cargo Complex, Mennabakkam, Chennai-60016.
- 2.The Commissioner of Customs (Appeals-I), 60, Rajaji Salai, Custom House, Chennai-600001.
3. S.P. Apparels Ltd., C/o Ringo Cargo Care, Sri Venkatesh Bhavan, 5th Floor Old No. 35, New No. 71, Armenian Street, Chennai-600001.
- 4.PA to AS(RA)
- 5.Guard File
- ✓ 6.Spare Copy
7. Notice Board.

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20/12/2022

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