

**SPEED POST**



F. No. 373/228/DBK/2016-R.A.  
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...26/12/22.....

Order No. 402 / 22-Cus dated 26-12-2022 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 129DD of the Customs Act, 1962 against the Order-in-Appeal No. 117/2016 dated 05.10.2016, passed by Commissioner of Customs (Appeals), Cochin.

APPLICANT : M/s. Orchid Marine, Chandiroor, Kerala.

RESPONDENT : The Commissioner of Customs, Cochin

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**ORDER**

A Revision Application No.373/228/DBK/2016-RA dated 06.12.2016 has been filed by M/s Orchid Marine, Chandiroor, Kerala (hereinafter referred to as the Applicant), against the Order-in-Appeal No. 117/2016 dated 29.09.2016, passed by the Commissioner of Customs (Appeals), Cochin. The Commissioner (Appeals) has upheld the Order-in-Original No. 19/2016 dated 16.06.2016, passed by the Deputy Commissioner of Customs (Drawback), Cochin.

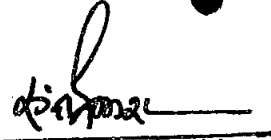
2. Brief facts of the case are that the Applicant had exported Frozen Squid, vide 01 Shipping Bill No. 7572122 dated 20.09.2013. The drawback claim of Rs. 1,39,361/- against the said Shipping Bill was processed as Zero (0) by the Respondent department. Shipping Bill was moved to "History" status in EDI system. Subsequently, Applicant filed a supplementary claim against the above said Shipping Bill. However, the original authority, vide the above mentioned Order-in-Original dated 16.06.2016, rejected the supplementary drawback claim as the same was filed beyond the permissible time limit of 18 months including extension period permissible under Rule 15 of the Customs, Central Excise Duties & Service Tax Drawback Rules, 1995. 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 while rejecting the drawback claim the Respondent department had not followed the principles of natural justice and the provisions of the Drawback Rules. As such, the claim could not have been rejected on the grounds of limitation.

4. Personal hearing in the matter was held on 23.12.2022, in virtual mode. Ms. Devika, Advocate appeared for the Applicant and reiterated the contents of the revision application. Sh. Ajith Kumar, Appraiser appeared for the Respondent department and supported the Order of the lower authorities.

5. The Government has carefully examined the matter. At the outset, it is clear that the drawback claim in respect of the subject Shipping Bill filed by the Applicant was processed as 'zero' by the original authority without issuance of any Show Cause Notice and speaking order. In effect, the claim was 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 Order of original authority and the Order of Commissioner (Appeals), it appears that the time period for counting the limitation for filing the supplementary claim was taken from the date when the drawback claim was made zero on the system i.e., 20.05.2014. 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 claim 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

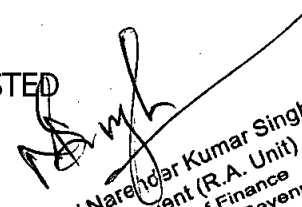
M/s. Orchid Marine, Anwar  
Palace, Chandiroor PO,  
Kerala-688547.

Order No. 402/22-Cus dated 26-12-2022

**Copy to:-**

1. The Commissioner of Customs, Customs House, Willingdon Island, Cochin-682009.
2. The Commissioner of Customs (Appeals), Custom House, Cochin-9.
3. Ms. Devika, Advocate, A5, HIG Avenue, Gandhi Nagar Road, Kadavanthra, Cochin, Kerala-682020.
4. P.S to A.S (RA)
5. Guard File
6. Spare Copy
7. Notice Board

ATTESTED



नरेंद्र कुमार सिंह / Narender Kumar Singh  
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