

REGISTERED
SPEED POST



F. No. 373/208/DBK/SZ/2021-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..13/02/23

Order No. 47/23-Cus dated 13-02-2023 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 under section 129 DD of the Customs Act 1962 against the Order-in-Appeal No. AIR C. Cus. I. No. 02/2021 dated 05.01.2021, passed by the Commissioner of Customs (Appeals-I), Chennai.

Applicant : M/s Fractal Fashion, Mumbai.

Respondent : The Pr. Commissioner of Customs, Air Cargo, Chennai-VII, Chennai.

ORDER

Revision Application No.373/208/DBK/SZ/2021-RA dated 16.06.2021 has been filed by M/s Fractal Fashion, Mumbai (hereinafter referred to as the Applicant) against the Order-in-Appeal No. AIR C. Cus. I. No. 02/2021 dated 05.01.2021, passed by the Commissioner of Customs (Appeals-I), Chennai. The Commissioner (Appeals) has, vide the above mentioned Order-in-Appeal, rejected the appeal of the Applicant herein, against the Order- in-Original No. 620/2020-AIR dated 26.09.2020, passed by the Assistant Commissioner of Customs, (DBK-ACC), Chennai-VII, Chennai.

2. Brief facts of the case are that the Applicant filed drawback claims in respect of 02 Shipping Bills, bearing Nos. 3905379 dated 30.06.2009 and 3916512 dated 16.07.2009, with the jurisdictional Customs authorities, for a total amount of Rs.54,361/-, which was 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, Show Cause Notice was issued to the Applicant and the demand of Rs.54,361/- along with applicable interest was confirmed by the original authority, vide aforesaid Order-in-Original dated 26.09.2020. Aggrieved, the Applicant filed an appeal before the Commissioner (Appeals), which has been rejected.

3. The revision application has been filed, mainly, on the grounds that the orders have been passed by the authorities below in a mechanical manner and in violation for principles of natural justice; that subject remittances have been received as per the BRCs dated 01.06.2010 issued by the AD Bank and hence the recovery of drawback against the impugned Shipping Bills is not valid.

4. Personal hearing, in virtual mode, was held on 25.01.2023. Sh. Chetan Kumar,

Chartered Account appeared for the Applicant and stated that the authorities below have passed adverse orders against them ex-parte. They have, now, submitted, alongwith the revision application the proof of realization of export proceeds within time. Hence revision application may be allowed. Sh. Gourav Kumar Bhut, Superintendent appeared for the Respondent department and stated that the BRCs need to be verified before accepting the same.

5. The Government has examined the matter carefully. It is contended by the Applicants that they had realized the export proceeds in respect of the impugned Shipping Bills, within the prescribed time. The copies of BRCs dated 01.06.2010 issued by the AD bank, i.e. Oriental Bank of Commerce, Mumbai, have been submitted alongwith the revision application. This factual aspect has not been considered by the authorities below. Therefore, it would be in the interest of justice if the matter is remanded to the original authority to verify the BRCs issued by the AD Bank and to decide the matter afresh after following the principles of natural justice. If upon verification, the contention of the Applicant that the remittances have been received within the stipulated time period, as per law, is found to be correct, the original authority shall close the subject matter, which has been initiated against the Applicant.

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



(Sandeep Prakash)

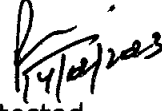
Additional Secretary to the Government of India

M/s Fractal Fashion,
Flat No., A/102, 1st Floor,
Twin Star Co-operative Housing Society Ltd.,
Srishati Compound, Saki Vihar Road,
Powai, Mumbai-400072.

Order No. 47 /23-Cus dated 13-02-2023

Copy to:

1. The Pr. Commissioner of Customs, Chennai-VII (Air Cargo), New Custom House, Air Cargo Complex, Meeambakkam, Chennai-600016.
2. The Commissioner of Customs (Appeal-I), 60, Rajaji Salai, Custom House, Chennai-600001.
3. Sh. Pradyumna G.H., Advocate, BVC & Co., No. 371, 1st Floor, 8th Main Road, Sadashivanagar, Bengaluru-560080.
4. PPS to AS(RA)
5. Guard File.
6. ✓ Spare Copy.
7. Notice Board.



Attested

प्रवीण नेगी / Praveen Negi
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