

REGISTERED
SPEED POST



F.No. 372/04/DBK/2020-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 21/03/22

Order No. 87/22-Cus dated 11-03-2022 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 under section 129 DD of the Customs Act 1962 against the Order-in-Appeal No. KOL/CUS(Airport)/AKR/799/2019 dated 12.12.2019, passed by the Commissioner of Customs (Appeals), Kolkata.
- Applicant : M/s HSE Hair Pvt. Ltd., Kolkata.
- Respondent : The Commissioner of Customs, Airport & Admn., Kolkata.

ORDER

Revision Application No.372/04/DBK/2020-RA dated 26.02.2020 has been filed by M/s HSE Hair, Pvt. Ltd., Kolkata (hereinafter referred to as the Applicant) against the Order-in-Appeal No KOL/CUS(Airport)/AKR/799/2019 dated 12.12.2019, passed by the Commissioner of Customs (Appeals), Kolkata. Commissioner (Appeals), vide the above mentioned Order-in-Appeal, has rejected the appeal of the Applicant, against the Order- in-Original No.KOL/CUS/ACC/DC/210/2017 dated 14.09.2017 passed by the Deputy Commissioner of Customs, Drawback department, Air Cargo Complex, NSCBI Airport, Kolkata.

2. Brief facts of the case are that the Applicant filed drawback claims in respect of 04 Shipping Bills, with the jurisdictional Customs authorities, for a total amount of Rs.2,44,217/-. Subsequently on scrutiny, queries were raised by the office of Respondent and the matter remained pending. Thereafter, a show cause notice dated 22.03.2017 was issued to the Applicant to reject the drawback claim of Rs. 2,44,217/- as the export proceeds were not received within the time period specified. The original authority rejected the drawback claim, vide aforesaid Order-in-Original dated 14.09.2017. Aggrieved, the Applicant filed an appeal before the Commissioner (Appeals), which was rejected.

3. The revision application has been filed, mainly, on the grounds that the subject remittances were received and the delayed realization thereof has been regularized by the AD Bank. Written Submissions dated 19.02.2022 have been filed by the Respondent department.

4. Personal hearing, in virtual mode, was held on 11.03.2022. Sh. Vinod Mehta, Advocate appeared for the Applicant and stated that the AD Bank i.e. Yes Bank, Manesar had, vide letter dated 20.02.2017, extended the period of realisation of export proceeds upto 31.08.2017 and the proceeds were realized in July, 2017 itself. However, despite the same, drawback claims have been rejected. Sh. Mehta requested that the revision application may be allowed with consequential relief. Sh.

Ranjeet Kumar Pathak, Appraiser appeared for the Respondent department and submitted that the Bank's letter dated 20.02.2017 is not on department records. Hence department may be provided an opportunity to verify the same.

4. The Government has examined the matter carefully. It is contended by the Applicant that they had realized the export proceeds and that the time period for realizing the export proceeds was extended by the AD bank i.e. Yes Bank Ltd., GC 1,2,3 & 3A Ground floor and basement Commercial Tower, Sector 2, IMT Manesar-122050 vide letter dated 20.02.2017, a copy whereof was submitted before the Appellate authority and at this stage also. Subject to verification thereof, no case for rejection of drawback claim is made out. Accordingly, the matter is remanded to original authority to verify the BRCs and the extension letter issued by the AD Bank and to decide the matter afresh after following the principles of natural justice. If upon verification the contentions of the Applicant that the remittance has been received and that the time period for realization has been extended by the AD Bank are found to be correct, the original authority shall grant consequential relief to the Applicant.

5. Accordingly, the orders of authorities below are set aside and 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 HSE Hair Pvt. Ltd.,
2/15, West Patel Nagar,
New Delhi - 110008.

Order No. 87/22-Cus dated 11-03-2022

Copy to:

1. The Commissioner of Customs (Airport & Admn.), NSCBI Airport, Kolkata - 700052.

2. The Commissioner of Customs (Appeals), 15/1, 3rd Floor, Strand Road, Kolkata – 700001.
3. Sh. Vinod Mehta, Advocate, 18/60, State Bank Building, Geeta Colony, New Delhi – 110031.
4. PS to AS (RA).
5. Guard File.
6. Spare Copy.

ATTESTED



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