

REGISTERED
SPEED POST



F.No. 380/38A/DBK/2015-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...30/10/24

Order No. 230/24-Cus dated 30-10-2024 of the Government of India passed by Smt. Shubhagata Kumar, 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. 44(SLM)CUS/JPR/2015 dated 15.05.2015, passed by the Commissioner, CGST & Service Tax (Appeals), Jaipur.

Applicant : The Commissioner of CGST & Service Tax, Alwar

Respondent : M/s. RGTL Industries Ltd., Alwar

ORDER

A revision application No. 380/38A/DBK/2015 dated 21.08.2015 has been filed by the Principal Commissioner, Central Excise, Alwar (hereinafter referred to as the applicant department) against the Order-in-Appeal No. 44(SLM)CUS/JPR/2015 dated 15.05.2015, passed by the Commissioner of Customs & Central Excise (Appeals), Jaipur, who has allowed the appeal of M/s. RGTL Industries Ltd., Alwar (hereinafter referred to as the Respondent) and set aside the Order-in-Original No. 319-23/2014-2015 (Refund-Drawback) dated 19.06.2014 rejecting the drawback claim filed by the respondent.

2. Brief facts of the case are that M/s. RGTL Industries Ltd., engaged in the manufacture of M S Bars/TMT Bars falling under Chapter 72 of the First Schedule to the Central Excise Tariff Act,1985/Customs Act,1975 had filed drawback claims under Rule 30(8) of Special Economic Zone (SEZ) Rules, 2006, in respect of supply of M.S. Bars TMT (Non Alloy Steel Bars) to SEZ Developers, M/s. Unitech Developers & Projects Ltd., Gurgaon and M/s. Unitech Reality Projects, Gurgaon, which were rejected by the original adjudicating authority vide OIO No. 319-23/2014-15 dated 19.06.2014 on the grounds that the respondent did not submit BRC, Disclaimer Certificate issued by the SEZ officer in the SEZ, the drawback has not been claimed/availed on the goods by the SEZ unit, an undertaking that drawback was not availed twice on the same goods was not enclosed with the claim as required under Circular No. 43/2007-Cus dated 05.12.2007,. Aggrieved, the respondent filed appeal against the O-I-O before Commissioner (Appeals) and the same was allowed by the Commissioner (Appeals) vide Order-in-Appeal No. 44(SLM)CUS/JPR/2015 dated 15.05.2015.

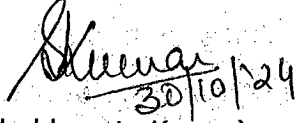
3. The revision application is filed mainly on the grounds that the Commissioner (Appeals) has failed to consider the Circular No. 43/2007-Cus dated 05.12.2007 issued by CBEC, New Delhi, which stipulates that as per Rule 30(5) of SEZ Rules, 2005, the specified officer in a SEZ is the appropriate authority for granting drawback claims in respect of goods supplied from DTA units to Developers and units in SEZ except where the unit or Developer does not intend to claim entitlement

of drawback, a disclaimer certificate shall be given to the DTA supplier for claiming such benefit and in such case the Commissionerate of Central Excise/Customs having jurisdiction over the DTA unit would sanction the drawback. In the instant case the applicant had failed to fulfill the requirement of Circular No. 43/2007-Cus dated 05.12.2007 as they did not obtain the disclaimer certificate from the Specified Officer of the SEZ for claiming drawback and failed to submit undertaking that drawback was availed twice on the same goods.

4. A personal hearing in the matter was fixed on 24.07.2024 & 12.08.2024, however, no one appeared for either side nor any request for adjournment has been received. Hence, the matter is being taken up for disposal based on available records.

5. The Government has carefully examined the matter. Rule 30(5) of SEZ Rules, 2006 states that the Specified Officer in a SEZ is the appropriate authority for granting drawback claims in respect of goods supplied from DTA units to Developers and units in SEZ except where the unit or Developer does not intend to claim entitlement of drawback, a disclaimer certificate shall be given to the DTA supplier for claiming such benefit and in such case the Commissionerate of Central Excise/Customs having jurisdiction over the DTA unit would sanction the drawback. In this matter, the original adjudicating authority has noted in his order that the department communicated the discrepancies including non-submission of Disclaimer Certificate noted in the application of the respondent for drawback vide letter dated 05.02.2013 which was not responded to by the respondent. It has been further noted by the original authority that even after the lapse of more than one year, the respondent was not able to remove the discrepancies in the application. However, the appellate authority in para 5.2 of his order noted that the SEZ developer had issued disclaimer certificate in favour of the applicant but is silent on whether the disclaimer certificate was accompanied by the certification that the drawback has not been claimed/availed on the goods by the Developer so as to establish that drawback has been availed earlier. Further, the said certificate also does not form the part of the available documents on record.

6. Accordingly, the revision application filed by the revenue is allowed and the Order-in-Original is restored.



30/10/24
(Shubhagata Kumar)
Additional Secretary to the Government of India

The Commissioner of CGST & Service Tax, Alwar
A-Block, Surya Nagar, Alwar-301001.

Order No. 230 /24-Cus dated 30-10-2024

Copy to:

1. M/s. RGTL Industries Ltd., SP-293-296, Phase-IV, Industrial Area, Bhiwadi, District-Alwar.
2. The Commissioner of Customs & Central Excise (Appeals), New Central Revenue Building Statue Circle, C Scheme, Jaipur-302005.
3. PPS to AS(RA).
4. Guard File.
5. ✓ Spare Copy.
6. Notice Board.


30/10/24
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