



सीमा शुल्क आयुक्त का कार्यालय, नवीन सीमा शुल्क सदन, नया कंडला
OFFICE OF THE COMMISSIONER OF CUSTOMS,
NEW CUSTOM HOUSE, NEW KANDLA-370 210 (GUJARAT)
Phone No: 02836-271468/469, Fax No. : 02836-271467.

फा.सं./F. No.-S/6-143/Ref/2018-19

आदेश की दिनांक /Date of Order: 26 .07.2019
जारी करने की दिनांक/ Date of Issue: 26 07.2019

पारित कर्ता/ Passed by: - श्री मुकेश चड्ढा/ Shree Mukesh Chadha
सहायक आयुक्त/Assistant Commissioner,
सीमा शुल्क सदन, कांडला/ Customs House, Kandla.

Spdt AAA
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on website

आदेश में मूल सं/ ORDER-IN- ORIGINAL NO: KDL/AC/MC/ 88 /Ref/2019-20

जिसके लिये यह प्रतिलिपि जारी की जाती है उस व्यक्ति के उपयोग के लिए यह निः शुल्क दी जाती है।

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इस आदेश के विरुद्ध अपील सीमा शुल्क अधिनियम-1962 की धारा-128 के तहत उक्त अपील की प्रति के साथ, आयुक्त के कार्यालय 7 वीं मंजिल मृदुल टॉवर, टाइम्स ऑफ इंडिया बिल्डिंग के पास, आश्रम रोड, अहमदाबाद, गुजरात 380009 में इस आदेश के जारी होने की तिथि से साठ दिनों के भीतर दायर की जानी चाहिए।

An appeal against this order lies with the Commissioner(Appeals), having office at 7th floor, Mridal Tower, Near Times of India Building, Ashram Road, Ahmedabad, Gujarat – 380 009 in terms of section 128 of the Customs Act, 1962. It should be filed within sixty days from the date of communication of this order.

यह अपील सीमा शु नियमावली-1982 के नियम-3 के उपनियम-(2) में निर्दिष्ट व्यक्ति द्वारा हस्ताक्षरित निर्धारित प्रारूप में दायर किया जाना चाहिए। उक्त अपील को दो प्रतियों में दाखिल किया जाए तथा जिस आदेश के विरुद्ध अपील की गई हो, उसकी भी उतनी ही प्रतियां संलग्न की जाएँ (उनमें से कम से कम एक प्रति प्रमाणित होनी चाहिए)। संबन्धित सभी दस्तावेज चार प्रतियों में भेजे जाने चाहिए। उक्त अपील, अपील के उचित समय और दिनांक को कमिश्नर (अपील) कार्यालय, अहमदाबाद में व्यक्तिगत रूप से प्रस्तुत किया जाए।

An appeal should be filed in format prescribed. It shall be signed by the person specified in sub-rule (2) of rule 3 of the Customs Appeals Rules, 1982. It shall be filed in duplicate and shall be accompanied by an equal number of copies of the order appealed against (one of which at least shall be certified copy). All supporting documents should be forwarded in quadruplicate. The appeal shall be presented in person to the office of the Commissioner (Appeals), Ahmedabad, but the date of receipt in the office will be relevant date of appeal whether in time or not.

अनुसूची-1 में न्यायालय शुल्क अधिनियम, 1870 के मद सं. 6 के तहत इस आदेश की प्रतिलिपि साथ निर्धारित 5/- रुपए का स्टाम्प कोर्ट फीस के रूप में वहन करना चाहिए।

The copy of this order attached herein should bear a Court Fee Stamp of Rs. 5/- (Rupees five only) as prescribed under 128 of the Customs Act, 1962.

Sub:-Refund claim of **Rs.9,80,328/- (Rupees Nine Lakh Eighty Thousand Three Hundred Twenty eight Only)** filed M/s D.P. Wires Limited, 16-18,Industrial Estate ,Ratlam -457001(MP) INDIA.

Brief facts of the case:

1. M/s D.P. Wires Limited, 16-18, Industrial Estate, Ratlam -457001(MP) INDIA (hereinafter referred to as the "Claimant") has filed a refund claim for Rs. 9,80,328/- under the provisions of Section 27 of the Customs Act, 1962 vide their letter dated 27.09.2018 (Received on 05.10.2018).

2. The Claimant has claimed the refund of amount of excess Duty deposited at the time of import clearance of Alloy Steel Billets vide B/E No. 7970842 dated 08.09.2018. The Claimant has filed the said refund claim along with following documents:-

- Refund application in prescribed format.
- Calculation Sheet
- E-Payment receipts Nos. 2024062710 dated 13.09.2018 (Bank TransactionNo. CKH0785866) amounting to Rs. 9,79,926/- and receipt no. 2024062710 dated 14.09.2018(Internet Transaction No. CKH0914433) amounting to Rs. 9,80,328/- evidencing the payment of duty twice.
- Duplicate Importer (in original) Copy of Bill Entry No. 7970842 dated 08.09.2018 in original.
- Declaration of the Claimant that they have appointed M/s. Sachin Moonat & Associates Chartered Accountant for Preparation of Company's Annual financial Accounts.
- Undertaking/declaration of the Claimant that they have not recovered from or passed on the burden of the amount of Rs.9,80,328/- being excess duty of Customs (for which refund has been claimed) from the buyer/any other person.
- Certificate dated 27.09.2018 issued by M/s. Sachin Moonat & Associates, Delhi Chartered Accountant certifying the amount sought as refund has not been passed on to the buyer or any other person in any form. And on certificate dated 16.04.2019 that the company didn't claim ITC on account of IGST and also didn't filed any other IGST claim in respect of Bill of Entry no.7970842 dt.08.09.2018.
- Copy of Ledger and Statement issued by bank duly self-certified. From 13.09.2018 to 31.10.2018.
- Certificate dated 30.12.2017 issued by State Bank of India, certifying the debit from claimant account and credit in to E-custom pooling account.

3. A deficiency memo was issued to the claimant on dtd. 29.05.2019 with some queries pointed out by the Assistant Commissioner (Pre-audit), Customs House, Kandla vide his letter dtd. 24.05.2019. The reply to the said deficiency memo was submitted by the claimant vide letter dtd. 10.07.2019.

4. The said refund claim has been scrutinized in terms of section 27 of the Custom Act, 1962 and it is found that the claim has been received within prescribed time limit of one year; that all necessary original documents i.e. the bill of entry in original and also self-certified copy of ledger account have been furnished, Statement issued by the Bank, self-declaration appointing Chartered Account & non passing on of duty burden to any other and Chartered Account Certificate certifying fulfillment of condition of unjust enrichment have been furnished. The claimant has also certified that the company didn't claim ITC on account of IGST and also did not file any other IGST claim in respect of Bill of Entry no.7970842 dt.08.09.2018. Thus the claimant has fulfilled all conditions and eligible for the refund of the excess duty of Rs. 9,80,328/- paid by them.

Findings:

5. I have carefully gone through the case record submitted by the claimant and find that the claimant has imported Alloy Steel Billets and the goods were assessed to duty on second appraisalment basis. The claimant has paid Duties of Customs amounting to Rs. 9,80,328/-only.

6. The claimant had twice deposited amount of BCD, social welfare charges and IGST of the said bill of entry vide the following details-

Sr. No.	Transaction ID	Challan No.	Ref. ID	B/E No. & Date	Date of payment	Amount
1.	CKH0785866	2024062710	IG130918022326 559319	7970842 / 08.09.18	13.09.2018	9,79,926/-
2.	CKH0914433	2024062710	IG140918033650 107867	7970842 / 08.09.18	14.09.2018	9,80,328/-

It is found that the claimant was required to pay the duty amount of Rs. 9,78,719/- alongwith interest of Rs. 1207/- which totals to Rs. 9,79,926/- against the Bill of Entry No. 7970842 dt. 08.09.2018 which was paid by the claimant on dtd. 13.09.2018 as mentioned in the above column. However, it is also seen that the duty amount against the same Bill of Entry No. was paid by the claimant on dtd. 14.09.2018 as well. It is evident that they have paid the duty twice against the Bill of Entry No. 7970842 dtd. 08.09.2018. Accordingly they filed the refund claim for excess customs duty paid.

7. I find that the importer paid the duty on the imported goods for a second time on 14.09.2018 amounting to Rs. 9,80,328/- which is verified from ICEGATE Ref. ID No. IG140918033650107867 and subsequently got the goods cleared. I also find that the claimant had earlier paid the duty amount

alongwith interest amounting to Rs. 9,79,926/- which is also verified from ICEGATE Ref. ID No. IG130918022326559319. Further, the claimant submitted the bank statement of SBI, Ratlam Branch from which it can be seen that the claimant paid amount of Rs. 9,79,926/- from transaction ID CKH0785866 on dtd. 13.09.2018 and an amount of Rs. 9,80,328/- from Transaction ID CKH0914433 on dtd. 14.09.2018. Moreover, the Deputy Commissioner (EDI), Customs House, Kandla also confirmed vide his letter dtd. 26.07.2019 that the claimant has paid duty amount of Rs. 9,79,926/- in respect of B/E No. 7970842 dtd. 08.09.2018 vide challan No. 2024062710. Therefore, it is clear that the claimant had paid the duty amount of Rs. 9,80,328/- again for the same Bill of Entry No.

8. I find that the claimant has submitted both the copies of the challans evidencing the payment of the duty. It is seen from these challans that even though the bill of entry number and E-challan Number is same, the date of payments are different. Apart from this, the internet transaction Number which reflects in the e-challans is also different. This transaction number in turn reflects in the bank statements of the claimant. Thus I find that the claimant's contention that they have paid the duty twice on the same import consignment appears to be genuine. In view of this, I find that the claimant has paid an excess amount of Rs. 9,80,328/- which therefore becomes refundable.

9. In view of above the processing of refund claim has been taken up and I proceed to ascertain as to whether the claimant has fulfilled all the conditions as envisaged in section 27 of the Customs Act thereby making them eligible for the refund. I find that as per section 27 in cases where the duty has been paid finally, the limitation of one year shall be computed from the date of final assessment. As such, the claim has been filed well within the time period and is not time barred. The said refund claim has been scrutinized in terms of section 27 of the Custom Act, 1962 and is found in order.

10. The claim is not barred by unjust enrichment since the claimant has submitted a certificate dated 05.12.2017 from their Chartered Account M/s Sachin Moonat & Associates, Delhi wherein it is certified that the amount sought as refund has not been passed on by the claimant to the buyer or any other person in any form and has been reflecting as duty receivable under the head Custom Duty. And also certified that that the company didn't claim ITC on account of IGST and also did not file any other IGST claim in respect of Bill of Entry no.7970842 dt.08.09.2018 As such I find that the claim is not barred by unjust enrichment.

11. The file was cleared from pre-audit vide letter F. No. S/7-52/Pre-audit/2019-20 dtd. 25.07.2019 by the Assistant Commissioner (Pre-audit), Customs House, Kandla.

12. In view of the foregoing Para, I find that the claimant has fulfilled all the conditions as laid down in section 27 of the Act and therefore the claimant is eligible for the refund of Rs. 9,80,328/-.

13. In view of the above discussions, I Pass the following Order.

ORDER

I sanction refund of Rs.9,80,328/- (Rupees Nine Lakh Eighty Thousand Three Hundred Twenty eight Only) being excess duty paid and claimed by M/s D.P. Wires Limited, 16-18,Industrial Estate ,Ratlam -457001(MP) INDIA under section 27 of the Customs Act, 1962.


(Mukesh Chadha)

Assistant Commissioner (Refund)
Customs House, Kandla.

Dated: 07.2019

By Hand Delivery

F.No. S/6-143/Refund/18-19

To,
M/s D.P.Wires Limited,
16-18, Industrial Estate,
Ratlam -457001(MP)



Copy to: 1) Deputy Commissioner (RRA) C.H. Kandla.
2) Guard file Refund Section.
3) Refund Sanction respective file.
4) EDI SECTION.