



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- 82/Ref/2019-20

आदेश की दिनांक / Date of Order: 12 / 12 / 2019

जारी करने की दिनांक / Date of Issue: 12 / 12 / 2019

पारित कर्ता / Passed by: - आर आर पवार / R. R. PAWAR
सहायक आयुक्त / Assistant Commissioner,
सीमा शुल्क सदन, कांडला / Customs House, Kandla.

आदेश में मूल सं/ ORDER-IN- ORIGINAL No.: KDL/AC/RRP/ 133 /Ref/2019-20

1. जिसके लिये यह प्रतिलिपि जारी की जाती है उस व्यक्ति के उपयोग के लिए यह नि: शुल्क दी जाती है।

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2. 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.

3. 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.

4. अनुसूची-I 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 application dated 23.09.2019 for an amount of **Rs. 94,258/-** (Rupees Ninety Four Thousand Two Hundred & Fifty Eight only) filed by **M/s. GOKUL AGRO RESOURCES Limited, Survey No.76/1/P-1, 80, 89 & 91, NEAR SHARMA RESORTS, GALPADAR ROAD, MEGHPAR BORICHI, TAL- ANJAR 370110, DIST- KACHCHH, GUJARAT.**

Brief facts of the case:

(1) M/s. Gokul Agro Resources Limited, Survey No. 76/1/P-1, 80, 89 & 91, Near Sharma Resorts, Galpadar Road, Meghpar Borichi, Tal- Anjar 370110, Dist- Kachchh, Gujarat. (Hereinafter referred to as the "Claimant") have submitted claim of refund for total amount of Rs. **94,258/- (Ninety Four Thousand Two Hundred Fifty Eight Only)** vide letter dated 23.09.2019 along with the relevant supporting documents with the Custom House, Kandla. The said refund claim pertains to excess payment of IGST amount by the claimant against various Ex-Bond Bills of Entry. The refund claim is filed under Section 27 of Customs Act, 1962.

(2) The claimant has filed Ex-Bond bill of entry wise refund claims along with the following documents in support of their claim-

1. Application for Refund
2. Challan No. 2027579471, 2027575549, 2027577276, 2027575076 all dtd 28/06/2019.
3. Copy of Finally Assessed Ex Bond Bills of Entry No. 3842928, 3843564, 3845586 and 3848054 all dated 28.06.2019.
4. Chartered Accountant Certificate issued by D.R.Shah & Associates, Chartered Accountant, Ahmedabad dated 16/09/2019 certifying that the claimant has not passed on directly or indirectly the IGST amount to any other person, Input of the same has not been claimed by the applicant.
5. Working Sheet showing the Excess paid IGST Amount.
6. Bank Statement dtd. 16/09/2019 showing debit of the duty amount.

(3) A letter F. No. S/6-82/Ref/2019-20 dtd. 25.09.2019 was written to the Deputy Commissioner (Group-I), Custom House, Kandla to send his comments regarding genuineness of claim made by the applicant.

(4) The Deputy Commissioner (Group-I), Customs House, Kandla vide letter F. No. S/20-24/Gr.I/Misc/2019-20 dtd. 05.11.2019 reported that on verification from ICES systems, it was found that M/s. Gokul Agro Resources Ltd. has paid Rs. 94,258/- as excess amount of IGST which is as under-

| Sr. No. | Ex Bond BOE | Date | Challan No. | Paid IGST Amt. | Actual IGST Amt. | Excess IGST Paid Amt. |
|---------|-------------|----------|-------------|----------------|------------------|-----------------------|
| 1 | 3842928 | 28.06.19 | 2027575076 | 1328670 | 1285646 | 43024 |
| 2 | 3843564 | 28.06.19 | 2027575549 | 738317 | 721239 | 17078 |
| 3 | 3845586 | 28.06.19 | 2027577276 | 738317 | 721239 | 17078 |
| 4 | 3848054 | 28.06.19 | 2027579471 | 738317 | 721239 | 17078 |

(5) A letter was written to the claimant on dated 09.12.2019 to submit the following papers-

- Balance sheet
- Ledger showing the amount refundable/receivable to the claimant
- Original copy of CA certificate.

(5.1) The claimant vide letter dated 10.12.2019 submitted the copy of ledger and original copy of CA Certificate and further submitted that as the financial year is running, the balance sheet for 2019-20 would be prepared after completion of FY 2019-20.

Findings:

(6) I have carefully gone through the case record submitted by the claimant. I find that the claimant has filed the refund claim of excess payment of IGST amount of Rs. **94,258/- paid** by them. The details of excess payment of IGST made by the claimant as per the Ex-Bond Bills of Entry and challan details submitted by them is as under-

| Sr. No. | Ex Bond | Date | Challan No. | Paid IGST Amt. | Actual IGST Amt. | Excess IGST Paid Amt. |
|--------------|---------|----------|-------------|----------------|------------------|-----------------------|
| 1 | 3842928 | 28.06.19 | 2027575076 | 1328670 | 1285646 | 43024 |
| 2 | 3843564 | 28.06.19 | 2027575549 | 738317 | 721239 | 17078 |
| 3 | 3845586 | 28.06.19 | 2027577276 | 738317 | 721239 | 17078 |
| 4 | 3848054 | 28.06.19 | 2027579471 | 738317 | 721239 | 17078 |
| TOTAL | | | | | | 94,258/- |

(7) I find that the Deputy Commissioner (Group-I) Customs House, Kandla vide letter F. No. S/20-24/Gr.I/Misc/2019-20 dtd. 05.11.2019 has reported that on verification from ICES systems, it was found that M/s. Gokul Agro Resources Ltd. has paid Rs. 94,258/- as excess amount of IGST. The Challan Nos. 2027579471, 2027575549, 2027577276, 20275795076 all dtd 28/06/2019 submitted by the claimant has also been verified from ICEGTE website and is found genuine. Thus the claim appears to be genuine and the amount of Rs. 94,258/- appears to be refundable to the claimant.

(8) I find that D. R. Shah & Associates, Chartered Accountant vide his certificate dated 16.09.2019 has certified that-

- Incidence of IGST claimed has not been passed on directly or indirectly to any other person.
- IGST has not been included in the cost.
- Input credit for the same has not been availed by the claimant.
- The amount of IGST claimed as refund was actually paid by the claimant.

In view of the above, it appears that no unjust enrichment exists in this refund claim.

(9) The Assistant Commissioner (TRC), Custom House, Kandla vide letter dtd. 10.12.2019 reported that as per their available records no recoverable dues are pending against M/s. Gokul Agro Resources Ltd. at Customs House, Kandla. Hence, it is evident that no government dues are pending against the claimant till date and amount of Rs. 94,258/- is refundable to them.

(10) As regards to limitation of filing refund claim within one year from the date of payment of duty or from the date of final assessment, I find, in the present case, the above payment for the Bill of Entry was made in June- 2019 and this refund claim was filed to this office on 23.09.2019, which is within stipulated period of one year from the date of finalization of provisional assessment of B/Es under the provisions of Section 27 of the Customs Acts, 1962, therefore, I find the claim is not hit by time bar.

(11) In view of above facts and circumstances, I hold that the claimant is eligible for refund of excess IGST amount paid to the tune of Rs. 94,258/- under the provisions of Section 27 of Customs Acts, 1962. The claim has been verified under the provisions of section 27 of Customs Act, 1962 and is found in order.

(12) In view of the above facts and the discussions herein, I pass the following order.

ORDER

I hereby sanction the refund of Rs. **94,258/-** (Rupees Ninety Four Thousand Two Hundred and Fifty Eight Only) to the claimant **M/s. Gokul Agro Resources Limited**, Survey No. 76/1/P-1, 80, 89 & 91, Near Sharma Resorts, Galpadar Road, Meghpar Borichi, Tal- Anjar 370110, Dist- Kachchh, Gujarat under Section 27 of Customs Act, 1962.

R. R. Pawar
12/12/2019

(R. R. PAWAR)

Assistant Commissioner (Refund)
Customs House, Kandla.

F.No./फा.सं.- S/6-82/ Refund/2019-20

Dated: 12 / 12 / 2019.

BY REGD. POST / HAND DELIVERY

To

M/s. Gokul Agro Resources Limited,
Survey No. 76/1/P-1, 80, 89 & 91,
Near Sharma Resorts, Galpadar Road,
Meghpar Borichi, Tal- Anjar 370110,
Dist- Kachchh, Gujarat

Copy to:

- 1) Deputy Commissioner (RRA) CH Kandla
- 2) Guard File Refund Section
- 3) Dy. Comm. EDI Section CH Kandla

