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भारत सरकार/ Government of India

सीमा शुल्क प्रधान आयुक्त का कार्यालय (विमान पतन एवं हवाई-मालभर परिसर)

Office of the Pr. Commissioner of Customs (Airport & ACC)

एयर कार्गो कॉम्प्लेक्स, एन एस सी बी आई एयरपोर्ट, कोलकाता - 700052

Air Cargo Complex, NSCBI Airport, Kolkata-700052

Tel: - 033-2243 5372 Fax No. -033-2210 5102 Email Id: - accadm-n-akolcus@gov.in

मूल आदेश सं. / ORDER NO: - KOL/CUS/ACC/DC/NR/BRC(AP)/2022-23/19

आदेश की तिथि/ DATE OF ORDER: 23.06.2022

जारी करने की तिथि/DATE OF ISSUE: 24.06.2022

द्वारा पारित /Passed by- श्री नवीन राणा/ Shri Naveen Rana

सीमा शुल्क उपायुक्त/ Deputy Commissioner of Customs

बी आर सी सेल/ BRC Cell

एयर कार्गो कॉम्प्लेक्स, एन एस सी बी आई एयरपोर्ट, कोलकाता - 700052

Air Cargo Complex, NSCBI Airport, Kolkata-700 052

Order – in - Original

- यह प्रतिलिपि, उस व्यक्ति को उपयोग करने हेतु नि:शुल्क दी जाती है जिसे यह जारी की गई हो।
THIS COPY IS GRANTED FREE OF CHARGE FOR THE PRIVATE USE OF THE PERSON TO WHOM IT IS ISSUED.
- सीमा शुल्क अधिनियम, 1962 की धारा 128 (i) के तहत इस आदेश के विरुद्ध कोई भी अपील इस पत्राचार के प्राप्त होने के साठ (60) दिनों के भीतर, आयुक्त सीमा शुल्क) अपील, सीमा शुल्क सदन, कोलकाता 700001-के समक्ष की जा सकती है। अपील प्रतिक्रिया में होनी चाहिए व सीमाशुल्क) अपील (नियम, 1982 में सलग्न प्रपत्र सी ए 1), में दाखिल करनी होगी। अपील पर 200 रुपये मात्र का कोर्ट की स्टैम्प होनी अनिवार्य है तथा इसके साथ यह निम्न अथवा उसकी प्रतिलिपि होनी आवश्यक है।

ANY APPEAL AGAINST THIS ORDER LIES TO THE COMMISSIONER OF CUSTOMS(APPEAL), KOLKATA, 15/1 STRAND ROAD, KOLKATA- 700001 UNDER SECTION 128 (I) OF THE CUSTOMS ACT 1962 WITHIN SIXTY DAYS FROM THE DATE OF COMMUNICATION OF THIS ORDER. THE APPEAL SHOULD BE IN DUPLICATE AND SHOULD BE FILED IN FORM

C.A. (I) APPENDED TO THE CUSTOMS (APPEAL) RULES 1982. THE APPEAL SHOULD BEAR A COURT FEE STAMP OF 200 PAISE ONLY AND SHOULD ACCOMPANY BY THIS DECISION OF A COPY THEREOF. IF A COPY OF THIS DECISION IS ENCLOSED, IT SHOULD ALSO BEAR A COURT FEE STAMP OF 200 PAISE ONLY PRESCRIBED UNDER SCHEDULE(I) ITEM, 6 OF THE COURT FEE ACT OF 1970.

3. इस आदेश के विरुद्ध सीमाशुल्क आयुक्त अपील में अपील करने पर 7.5% का अग्रिम पेमेंट करना अनिवार्य है। यह अग्रिम पेमेंट डिमांड की गई ड्यूटी या ड्यूटी और पेनल्टी के 7.5% के बराबर होगी जहाँ दोनों विवादित हैं, या पेनल्टी के 7.5% के बराबर होगी जहाँ सिर्फ पेनल्टी विवादित है।

AN APPEAL AGAINST THIS ORDER SHALL LIE BEFORE THE COMMISSIONER (APPEAL) ON PAYMENT OF 7.5% OF THE DUTY DEMANDED WHERE DUTY OR DUTY AND PENALTY ARE IN DISPUTE OR PENALTY, ARE IN DISPUTE OR PENALTY, WHERE PENALTY ALONE IS IN DISPUTE.

4. इस आदेश अथवा निर्णय के विरुद्ध अपील करने को इच्छुक किसी भी व्यक्ति को लंबित अपील, शुल्क मांग या लगाए गए जुर्माने के भुगतान का प्रमाण अपील के साथ देना होगा, ऐसा न करने पर अपील को सीमा शुल्क अधिनियम, 1962 की धारा 129 ई में दिये गए प्रावधानों की गैर अनुपालन के कारण अस्वीकार किया जा सकता है।

ANY PERSON DESIROUS OF APPEALING AGAINST THIS DECISION OR ORDER SHALL PENDING THE APPEAL DEPOSIT THE DUTY IN TERMS OF THIS ORDER AS LAID DOWN UNDER SECTION 129 OF THE C.A.1962.

Subject : Adjudication of Demand Notice No. 69/2019 dated 15.07.2019 issued under section 75(1) of Customs Act, 1962 read with rule 18(2) of the Customs, Central Excise duties and Service Tax Drawback Rule, 2017 for non realization of export proceeds against 09 Shipping bills (Mentioned below in Table A) in respect of M/s Universal Craft (IEC: 0201017784), 51, Dakshin Hatiara Road, 24 Parganas North, Kolkata, West Bengal - 700157.

Brief Facts of the Case

1. From the RBI BRC Module in ICLS system 1.5, it was revealed that Foreign Exchange towards sale proceeds in respect of exports effected against 09 Shipping Bills (mentioned in below Table A) by M/s. **Universal Craft (IEC: 0201017784)** have not been realized within permissible time limit under Foreign Exchange Management Act, 1999 (FEMA, 1999) read with Foreign Exchange Management (Export of Goods & Services) Regulation, 2015 read with RBI rules as stated in RBI/2014-15/306 A.P (DIR Series) Circular No. 37 dated 20.11.2014. The exporter has availed the drawback of **Rs. 6,02,852.00 (Rupees Six Lakhs Two Thousand Eight Hundred Fifty-Two only)** subject to realization of foreign exchange as sale proceeds above mentioned Shipping bill within permissible time limit effected through Kolkata Airport Commissionerate.
2. As such, in terms of Rule 18 (2) of the Customs, Central Excise Duties and Service

Tax Drawback Rules, 2017, Demand Notice No. 69/2019 dated 15.07.2019 issued vide F. No. S41(Misc.)-69/19/BRC/ACC to the Exporter **M/s. Universal Craft (IEC: 0201017784)** for recovery of proportionate Drawback availed amounting **Rs. 6,02,852.00 (Rupees Six Lakhs Two Thousand Eight Hundred Fifty-Two only)** and directed to either submit the copy of e-BRCs or FIRC, if realised, within thirty days from the date of receipt of the Notice to the Deputy Commissioner of Customs, BRC Cell, Air Cargo Complex, NSCBI Airport, Kolkata - 700 052 or to produce evidence of realization of export proceeds within a period of thirty days from date of receipt of Show Cause notice.

Submission and Personal Hearing of Exporter

3. The exporter vide his letter dated 05.08.2019 has replied against the Demand Notice no. 69/2019 dated 15.07.2019 wherein he has submitted e-BRC against subject 09 shipping bills.

Discussion & Findings

4. I have gone through the records of the case available with this office carefully, regarding the realization and repatriation of export proceeds into India against subjected 09 shipping bills and submitted e-BRCs by exporter against the said shipping bill, and it is found that export proceeds against the said shipping bill has been realized within permissible time under FEMA, 1999. The particulars of the realization details has been mentioned as below:

Table A

Sl No	S B No	S.B Date	LEO Date	Scroll Date	DBK Amount	Amount to be realized	Amount Realized	Realization date	e-BRC certificate no and date
1	63696 21	29.05.2017	30.05.2017	23.06.2017	17968	3744	3729	08.08.2017	KARB000 01470000 44316 dated 24.08.2018
2	65661 65	06.06.2017	07.06.2017	23.06.2017	39699	8365	8329	20.06.2017	KARB000 01470000 40501 dated 02.01.2018
3	71785 18	06.07.2017	07.07.2017	16.08.2017	63504	12941.25	12869.25	20.06.2017 20.07.2017	KARB000 01470000 40347 dated 29.12.2017 KARB000 01470000 40348 dated 29.12.2017

4	88509 37	23.09.20 17	25.09.20 17	27.10.2 017	24895 4	50035	49953	27.10.2017 01.01.2018	KARB000 01470000 40976 dated 19.0 1.2018 KARB000 01470000 40977 dated 19.0 1.2018
5	84769 94	06.09.20 17	07.09.20 17	27.10.2 017	13668 2	27589.50	27513.50	12.04.2017 15.12.2017	KARB000 01470000 40411 dated 01.0 1.2018 KARB000 01470000 40412 dated 01.0 1.2018
6	94254 88	23.10.20 17	23.10.20 17	03.11.2 017	31612	35585	35567	21.12.2017	KARB000 01470000 41662 dated 15.0 2.2018
7	90916 47	05.10.20 17	06.10.20 17	27.10.2 017	16163	17845	17805	09.11.2017	KARB000 01470000 44323 dated 24.0 8.2018
8	10283 74	21.11.20 17	21.11.20 17	04.12.2 017	38317	44002	43979	26.01.2018 16.02.2018	KARB000 01470000 47642 dated 31.0 7.2019 KARB000 01470000 44324 dated 24.0 8.2018
9	21577 28	12.01.20 18	12.01.20 18	24.01.2 018	9953	11340	11290	31.01.2018	KARB000 01470000 46565 dated 26.0 4.2019
Total:						211446.7 5	211034.75		

Accordingly, export proceeds has been realized against all 09 shipping bills mentioned at Table A in full in light of CBIC circular No 33/2019 – Customs dated 19.09.2019 issued vide F. No. 609/19/2019-DBK as the less realized amount is within the overall limit of 12.5% on FoB value of the goods allowed by the Board on account of Agency Commission charges and Foreign Bank Charges etc.

ORDER

5. In light of the discussion and findings herein mentioned above and as per provision to rules 18(2) of Customs, Central Excise Duties and Service Tax Drawback Rules, 2017:-

I drop the demand amount of 6,02,852.00 (Rupees Six Lakhs Two Thousand Eight Hundred Fifty-Two only) against the exporter **M/s. Universal Craft (IEC: 0201017784)** in the matter of Demand Notice no. 51/2018 dated 04.12.2018, as export proceeds against relevant 09 shipping bills has been realized in full within permissible time limit under FEMA, 1999.

Signed by Naveen Rana

Date: 23-06-2022 17:52:57

Reason: Approved

(Naveen Rana, IRS)

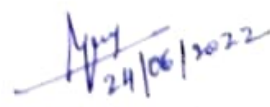
Deputy Commissioner of Customs(A & A),
BRC Cell, Air Cargo Complex,
NSCBI Airport, Kolkata - 700 052

Date : 24.06.2022

Copy to:

- ✓ 1. M/s Universal Craft, 51, Dakshin Hatiara Road, 24 Parganas North, Kolkata, West Bengal – 700157.
2. The Principal Commissioner of Customs (Airport & Administration), 15/1, Strand Road, Kolkata – 700 001 for necessary information please.
3. The Deputy/ Assistant Commissioner of Customs, Adjudication Cell, Custom House, Kolkata – 700 001 for necessary information please.
4. The Deputy/ Assistant Commissioner of Customs, Review Cell, Custom House, Kolkata – 700 001 for necessary information please
5. Guard File

Date : 24.06.2022


(Ajay Kumar Gupta)
Appraiser,
BRC Cell, Air Cargo Complex,
NSCBI Airport, Kolkata - 700 052