

REGISTERED  
SPEED POST



F.No. 372/14/DBK/2018-RA  
GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(DEPARTMENT OF REVENUE)

14, HUDCO VISHALA BLDG., B WING  
6<sup>th</sup> FLOOR, BHIKAJI CAMA PLACE,  
NEW DELHI-110 066

Date of Issue. 8/1/2020

Order No. 04/2020-LN 719-Cus dated 01/01/2020 of the Government of India passed by Mrs. Mallika Arya, Principal Commissioner & 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)/AA/1704/2017 dated 08.11.2017, passed by the Commissioner of Customs (Appeals), Kolkata.

Applicant : M/s KGN International

Respondent : Commissioner of Customs(Airport &ACC), Kolkata

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**ORDER**

A Revision Application No.372/14/DBK/18-RA dated 15.02.2018 has been filed by M/s K.G.N International (hereinafter referred to as the applicant) against the OrderNo.KOL/Cus(Airport)/AA/1704/2017 dated 08.11.2017, issued by the Commissioner of Customs (Appeals), Kolkata. Commissioner (Appeals) has rejected the appeal as time bar on the ground that the applicant failed to produce sufficient cause which prevented them from filing the appeal beyond the stipulated period of sixty days as per Section 128 of the Customs Act, 1962 .

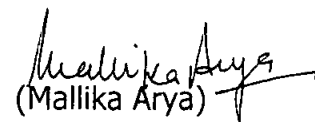
2. Brief facts of the case are that the applicant filed a drawback claim in respect of three Shipping Bill with the jurisdictional Dy. Commissioner of Customs. The said claim was rejected by the jurisdictional Dy. Commissioner of Drawback, Custom House, Kolkata on the ground that the applicant had failed to submit the proof of export proceeds in respect of impugned Shipping Bill in terms of Rule 16A of the Customs, Central Excise duties and Service Tax Drawback Rules, 1995. Aggrieved, the applicant filed an appeal before the Commissioner (Appeals) who was rejected them as time bar. The instant revision application has been filed mainly on the ground that the time limit prescribed under the Customs Act is just procedural in nature and cannot take away the statutory right of the applicant.

3. Personal hearing was granted on 21.11.2019. Neither the applicant nor the respondent attended the hearing on the above mentioned date. Another date for Personal hearing was fixed on 20.12.2019. The applicant vide their letter dated 20.12.2019 has sought another adjournment without any satisfactory reasoning. Since enough opportunities have already been accorded to the applicant/respondent, the case is being taken up for final disposal.

4. Government has examined the matter. It is observed that the Commissioner (Appeals) has rejected the appeal as time bar as the appeal was not filed within the

stipulated period of 60 days in terms of Section 128 of the Customs Act, 1962. Government observes that the appeal was filed on 31.01.2017 after 61 days from the date of communication of the Order-in-Original. Government is of the view that this delay should have been condoned by the Commissioner (Appeals) under Proviso to sub-section (1) of Section 128 of the Customs Act, 1962 and decided the case on merits. Since Commissioner (Appeals) has not condoned the delay in filing the appeal, Government condones the delay in filing the appeal before the Commissioner (Appeals) and allows the Revision Application.

5. Revision Application filed by the applicant is allowed by way of remand to Commissioner (Appeals).

  
(Mallika Arya)

Additional Secretary to the Government of India

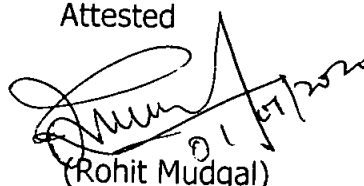
M/s KGN International,  
101/B, C.R. Avenue, Room No. 4 A,  
Kolkata-700073

Order No. 04/2020-Cus /19-Cus dated 01/01/2020 ~~2019~~

Copy to:

1. The Commissioner of Customs (Airport & ACC), NSCBI Airport, Dumdum, Kolkata - 700052.
2. Commissioner of Customs (Appeals), Kolkata, 15/1 Strand Road, Custom House, Kolkata- 700001.
3. Deputy Commissioner, (Drawback, Airport), NSCBI Airport, Dumdum, Kolkata - 700052PS to AS(RA)
4. Guard File.
5. Spare Copy

Attested

  
(Rohit Mudgal)

Superintendent (REVISION APPLICATION)