

SPEED POST



F.No. 373/139/DBK/2019-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.....05/4/23

Order No. 144/23-Cus dated 05-04-2023 of the Government of India passed by Sh. Sandeep Prakash, 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. 402/2018 dated 21.12.2018, passed by the Commissioner of Customs (Appeals), Bengaluru.

Applicant : M/s United Telelinks (Bengaluru) Ltd., Bengaluru.

Respondent : The Pr. Commissioner of Customs, Airport & Air Cargo Complex, Bengaluru.

ORDER

A Revision Application, bearing no. 373/139/DBK/2019-RA dated 04.04.2019, has been filed by M/s United Telelinks (Bengaluru) Ltd., Bengaluru (hereinafter referred to as the Applicant) against the Order-in-Appeal No. 402/2018 dated 21.12.2018, passed by the Commissioner of Customs (Appeals), Bengaluru. The Commissioner (Appeals) has, vide impugned Order-in-Appeal, rejected the Appeal filed by the Applicant, against the Order-in-Original No. 539/2018 dated 30.07.2018, passed by the Deputy Commissioner of Customs, ACC, Bengaluru.

2. Brief facts of the case are that the Applicant imported 5000 nos of GSM mobile phones, vide Bill of Entry No. 2164976 dated 06.08.2015, and another 5000 nos of mobile phones, vide Bill of Entry No. 2164977 dated 06.08.2015, from Hong Kong. Out of the 10000 mobile phones 2040 nos are stated to have been re-exported, vide Shipping Bill No. 006540 dated 20.11.2015. The proportionate drawback claim, in terms of Section 74 of the Customs Act, 1962, involved was Rs. 11,43,874/-. The claim of drawback was, however, rejected by the original authority, vide aforesaid OIO dated 30.07.2018 on the grounds that the identity of the goods is not established. Aggrieved, the Applicant filed appeal before the Commissioner (Appeals), which has been rejected.

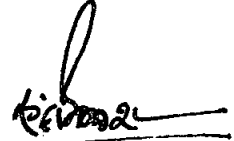
3. The revision application has been filed, mainly, on the grounds that the identity of the goods were clearly established through direct and collateral evidences; that the goods were unused in India and the same was certified by Superintendent/Deputy Commissioner (Customs) at the time of re-export who have also confirmed the identity of the goods in the examination report.

4. Personal hearings in the matter were fixed on 13.03.2023, 22.03.2023 & 03.04.2023. Sh. Suresh Kumar, CA, appeared for the Applicant in the personal hearing held, in virtual mode, on 03.04.2023. Upon being asked, he stated that RA fee has not been paid. He further stated that RA fee shall be paid and proof submitted later. Since RA fee is not paid, the RA is not maintainable. As such, hearing on merits was not proceeded with. No one appeared for the department nor

any request for adjournment has been received. Hence, it is presumed that the department has nothing to add in the matter.

5. The Government has examined the matter carefully. In terms of sub-section (3) of Section 129DD of the Customs Act, 1962, a revision application "shall be accompanied by a fee" of Rs. 1,000/- where amount of duty etc. involved is more than one lakh rupees. The usage of word "shall" makes it apparent that payment of RA fee is mandatory for a revision application to be entertained. In the present case, the RA fee has admittedly not been paid. The instant RA was filed on 04.04.2019 and the fee has not been paid despite a lapse of 04 years and despite reminders dated 11.03.2020, 27.02.2023, 13.03.2023 and 22.03.2023. As such, the instant revision application is liable to be rejected, as non-maintainable.

6. The revision application is rejected, accordingly.



(Sandeep Prakash)

Additional Secretary to the Government of India

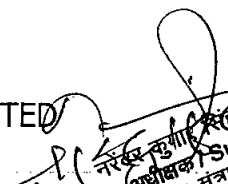
M/s. United Telelinks (Bengaluru) Ltd.
No. 39/3, Appareddypalya Main Road,
Off 7th Main HAL II Stage, Indira Nagar
Bengaluru-560036

Order No. 144/23-Cus dated 05-04-2023

Copy to:

1. The Pr. Commissioner of Customs, Air Cargo Complex, AI SATS, Air Cargo Terminal, Devanahalli, Bengaluru-560300.
2. The Commissioner of Customs (Appeals), BMTC Building, Above BMTC Bus Stand, Old Airport Road, Domlur, Bengaluru-560071.
3. M/s. TASSK & Associates LLP, Chartered Accountants No. 2, 3rd Main Road, Rajalakshmi Nagar, Velachery, Chennai-600042.
4. PPS to AS(RA)
5. Guard File
6. Spare Copy
7. Notice Board

ATTESTED



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