

Email**CRU, EXPORT, NCH**

Withdrawal of detention notice dated 08.12.201 issued against M/s Citizen Umbrella Manufacturers Limited

From : CCU Customs Mumbai Zone I <ccu-cusmum1@gov.in>

Wed, Apr 09, 2025 01:32 PM

 1 attachment**Subject :** Withdrawal of detention notice dated 08.12.201 issued against M/s Citizen Umbrella Manufacturers Limited**To :** pr.ccgeneral <pr.cc-general@gov.in>, Import I CRU <import-1nch@gov.in>, Import II Commissionerate <commr.import2@gov.in>, CRU, EXPORT, NCH <cru-exportmcz1@gov.in>, Commissioner Customs Export Mumbai I <comcusexp-mum1@gov.in>, Audit Commissionerate Mumbai Zone I <audit-commr.cusz1mum@gov.in>, Commissioner Customs Audit Mumbai I <comcus-audit@gov.in>, ccappealszone. I <ccappealszone.1@gov.in>, Secretary CAAR <cus-advrulings.mum@gov.in>, DRI Adjudication <dri.adjmun@gov.in>External images are not displayed. [Display images below](#)

Respected Sir/Madam,

Please find enclosed herewith an attachment(s) on the above mentioned subject. This is for information and necessary action at your end.


Regards,**Chief Commissioner of Customs' Office
Mumbai Customs Zone-I**



Scan_2042.pdf

7 MB

Send To all Commissioners
DIN-20250376NN000000J7FF

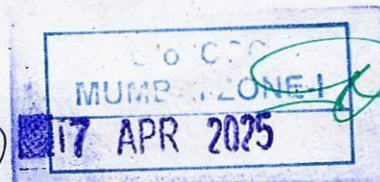
| | |
|---|---|
|  | भारत सरकार / GOVERNMENT OF INDIA |
| | सीमा शुल्क प्रधानआयुक्त का कार्यालय (पत्तन) |
| | OFFICE OF THE Pr. COMMISSIONER OF CUSTOMS (PORT) |
| | सीमा शुल्क सदन, 15/1 स्ट्रैंड रोड, कोलकाता- 700001 (प. बं.) CUSTOM HOUSE, 15/1 STRAND ROAD, KOLKATA- 700001 (WB) |

DIN No.

Subject: Withdrawal of Detention Notice dated 08.12.2021 issued against M/s. Citizen Umbrella Manufacturers Limited [IEC 0296016080], 147, Mahatma Gandhi Road, Kolkata-700007-reg

Ref.: Order-In-Original Nos.

1. KOL/CUS/DC/5796/ARS/2016 dated 30.11.2016
2. KOL/CUS/DC/5098/ARS/2016 dated 28.10.2016
3. KOL/CUS/DC/5104/ARS/2016 dated 28.10.2016
4. KOL/CUS/DC/6593/ARS/2016 dated 30.11.2016



Dec/CCO

2/8/2025

Selfish

Spur (Tcom)

Whereas Detention Notice dated 08.12.2021 was issued under Section 142(1)(a) & 142(1)(b) of the Customs Act, 1962 to M/s. Citizen Umbrella Manufacturers Ltd., IEC: 0296016080, having office address at 147, Mahatma Gandhi Road, Kolkata-700007 in the matter of recovery of Government dues.

In this respect it is to state that M/s Citizen Umbrella Manufacturers Ltd. (IEC - 0296016080) has deposited Rs.10,78,721/- (Rupees Ten Lakh Seventy Eight Thousand Seven Hundred Twenty One only) imposed against Order-in-Originals No.

1. KOL/CUS/DC/5796/ARS/2016 dated 30.11.2016,
2. KOL/CUS/DC/5098/ARS/2016 dated 28.10.2016,
3. KOL/CUS/DC/5104/ARS/2016 dated 28.10.2016 &
4. KOL/CUS/DC/6593/ARS/2016 dated 30.11.2016 vide following Challan No:

| | |
|---------------------|----|
| EMAIL SENT ON | AT |
| PR. COMM. (G) | ✓ |
| COMM. (X) | ✓ |
| COMM. IMPORT. (III) | ✓ |
| COMM. (ADJ) | ✓ |
| COMM. (APPEALS) | ✓ |
| COMM. (CAAR) | ✓ |
| COMM. (ADJ) | ✓ |
| STA/TA (PCCO) | ✓ |

| Sl. No. | Order-in-Original No. & Date (Confirm demand order) | TR-6 No. & date | Amount |
|---------|--|--|-------------------|
| 1 | KOL/CUS/DC/5796/ARS/2016 DT. 30.11.2016 (BoEs No. 6238968 dt 25.07.14, 6125227 dt 16.07.14, 6093201 dt. 14.07.14, 6004135 dt.03.07.14, 5797122 dt.13.06.14 & 5689995 dt. 03.06.14) | Custom Receipt No. M-53 Date- 01.03.2019 | Rs. 3,06,308.00/- |

| | | | |
|---|--|---|-------------------------|
| 2 | KOL/CUS/DC/5098/ARS/2016 DT. 28.10.2016 (BoEs No. 4815400 dt. 05.03.14, 5644990 dt.29.05.14,5714508 dt. 05.06.14,6976355 dt.07.10.14,7049201 dt.13.10.14,7125021 dt.20.10.14,7125024 dt.20.10.14) | Custom Receipt No. M-52 date 01.03.2019 | Rs. 3,82,463.00/- |
| 3 | KOL/CUS/DC/5104/ARS/2016 DT. 28.10.2016 (BoEs No. 6331674 dt. 04.08.14, 6366406 dt.07.08.14,6460833 dt.18.08.14,6534751 dt.25.08.14,6557350 dt.26.08.14,6612891 dt.01.09.14) | Custom Receipt No. M-55 date 01.03.2019 | Rs. 2,47,051.00/- |
| 4 | KOL/CUS/DC/6593/ARS/2016 DT. 29.12.2016 (BoEs No. 6711066 dt. 10.09.14,6763572 dt. 15.09.14, 6891751 dt. 26.09.14) | Custom Receipt No. M-54 date 01.03.2019 | Rs. 1,42,899.00/- |
| | | Total | Rs. 10,78,721.00 |

Hon'ble High Court, Calcutta [appeals CUSTA/28/2024, CUSTA/29/2024, CUSTA/30/2024, CUSTA/31/2024 (IA NO. GA/1/2024,GA/2/2024) in the matter of M/s. Citizen Umbrella Manufacturers Ltd. -Vs- The Commissioner of Customs (Port), Kolkata] vide its common order dated 22.05.2024 observed that "there is nothing on record to indicate that the appellants with certain ulterior motive and with full knowledge produced a false document stating the same to be true" and remanded the matter back to the adjudicating authority for a fresh consideration.

Relevant portion of the order is reproduced below:

*"In the light of the above, we are of the view that the matter can be remanded back to the adjudicating authority for a fresh consideration, taking note of the chartered accountant certificate dated 23.11.2016 issued by R.Rampuria & Co., Chartered Accountant called upon the appellants to produce the other documents and records, afford an opportunity of personal hearing to the authorised representative of the appellants and also the veracity of the documents and take a fresh decision on merits and in accordance with law without being in any manner influenced by any of the observations made in the earlier orders, which have been set aside.
The appeals are allowed with the above direction."*

Further vide Office Note dated 16.07.2024, Appraising Legal (Port) Custom House, Kolkata intimated that the above order passed by the Hon'ble High Court, Calcutta has been accepted by the Commissioner of Customs (Port) Kolkata.

Accordingly, **Denovo Adjudication Order No. 65 dated 29.11.2024 (Order-in-Original No.**

KOL/CUS/AC/ARS(Port)/757/2024 dated 29.11.2024 has been passed by the Assistant Commissioner of Customs, Appraising Refund Section (Port) wherein he dropped the proceedings initiated by the above-mentioned Order-in-Originals No.

1. **KOL/CUS/DC/5796/ARS/2016 dated 30.11.2016,**
2. **KOL/CUS/DC/5098/ARS/2016 dated 28.10.2016,**
3. **KOL/CUS/DC/5104/ARS/2016 dated 28.10.2016 &**
4. **KOL/CUS/DC/6593/ARS/2016 dated 30.11.2016,**

for demand of erroneously refunded SAD amount of Rs. 3,60,362/-, Rs. 4,49,957/-, 2,90,649/- & 1,68,116/- respectively in respect of M/s Citizen Umbrella Manufacturers Ltd. (IEC No. 0296016080) having office address at 747, Mahatma Gandhi Road, Kolkata-700007, West Bengal under Section 28 of the Customs Act 1962. (copy enclosed).

The said **De-novo Adjudication Order (Order-in-Original No. KOL/CUS/AC/ARS(Port)/757/2024 dated 29.11.2024)** has been accepted by the **Principal Commissioner of Customs (Port) on 21.02.2025** (Sl. No.5) as intimated by Review Cell, Port vide Office Note dated 26.02.2025. (copy enclosed)

Henceforth, the Detention Notice dated 08.12.2021 issued to M/s. Citizen Umbrella Manufacturers Ltd. (IEC: 0296016080), 147, Mahatma Gandhi Road, Kolkata-700007 stands withdrawn with immediate effect.

Date: 28-03-2025.

Signed by

Sofiul Alam

Date: 28-03-2025 17:19:23
SOFIUL ALAM

Assistant Commissioner of Custom,
Appraising Refund Section (Port),
Custom House: Kolkata.

To:

M/s. Citizen Umbrella Manufacturers Limited [IEC 0296016080],
147, Mahatma Gandhi Road,
Kolkata-700007.

Copy to:

The Principal Chief Commissioner/Chief Commissioner of Customs -Kolkata zone, Ahmedabad Zone, Bengaluru Zone, Chennai Zone, Delhi Zone, Delhi (Prev.) Zone, Mumbai-I Zone, Mumbai-II Zone, Mumbai-III Zone, Patna Zone, Tiruchirapalli (Prev.) Zone.

The Principal Chief Commissioner/ Chief Commissioners of CGST & Central Excise, Ahmedabad Zone. Bangalore Zone, Bhopal Zone, Bhubaneswar Zone, Chandigarh Zone, Chennai Zone, Cochin Zone. Coimbatore Zone, Delhi Zone, Hyderabad Zone, Jalpur Zone, Kolkata Zone, Lucknow Zone, Meerut Zone, Mumbai -I Zone, Munmbal-II Zone, Mysore Zone, Nagpur Zone, Pune Zone. Ranchi Zone, Shillong Zone, Vadodora

Zone, Vishakhapatnam Zone.

The A.C. /D.C. Apprg. Gr.1/Gr.2/Gr.3/Gr.4/Gr.5A/Gr.5B/DEEC Cell/DEPB
(Export)/ DEPB (Import)/ Drawback/ Export/ S.I.B/ E.D.I/ Import Bond/
Correspondence/ D.F.R.C/ I.A.D/ P.A.D/ S.T.R.C (Port)/ C.A.O (Accts. Deptt.),
Custom House, Kolkata.

SOFIUL ALAM,
Assistant Commissioner of Custom,
Appraising Refund Section (Port),
Custom House: Kolkata.

DIN - 20241176NN000000BB12



भारत सरकार/ Government of India
सीमा शुल्क आयुक्त का कार्यालय (पतन)
Office of the Pr. Commissioner of Customs (PORT)
सीमा शुल्क सदन, 15/1, स्ट्रैंड रोड, कोलकाता - 700 001
Custom House, 15/1, Strand Road, Kolkata - 700 001

F. No. CUS/RFD/MISC/569/2024-REF

मूल आदेश सं. O/O No. :- KOL/CUS/AC/ARS(Port)/ 757 /2024 आदेश की तिथि/ Date of Order: 29.11.2024

Denovo Adjudication Order No. 65 जारी करने की तिथि/Date of Issue: 29.11.2024
Arising out of Order No. CUSTA/28/2024, CUSTA/29/2024, CUSTA/30/2024, & CUSTA/31/2024
IA NO. GA/1/2024, GA/2/2024 dated 22.05.2024 in respect of Demand-cum-Show Cause Notice
issued from File no: File no: S107-3190/2014 ARS (Port) dated 20.08.2014, File no: S107-
3682/2014 ARS (Port) dated 19.09.2014, S107-4007/2014 ARS (Port) dated 20.10.2014 & S107-
4193/2014 ARS (Port) dated 07.11.2014.

द्वारा पारित/ Issued By:

उप/ सहायक आयुक्त सीमा शुल्क
Dy/Asst. Commissioner of Customs
मूल्यांकन वापसी अनुभाग(पतन)
Appraising Refund Section (Port)
सीमा शुल्क सदन, कोलकाता
Custom House, Kolkata

मूल-आदेश /ORDER-IN-ORIGINAL

- यह प्रति, उस व्यक्ति को उपयोग करने हेतु निःशुल्क दी जाती है जिसे यह जारी की गई हो।
This Copy granted free of charge for the use of persons 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- 700 001 के समक्ष की जा सकती है।
An appeal under this Order lies to the Commissioner of Customs (Appeals), Custom House, Kolkata-700001 u/s. 128(i) of Customs Act, 1962 within Sixty (60) days from the date of communication of this Order.
- अपील प्रतिलिपि में होनी चाहिए व सीमाशुल्क (अपील) नियम, 1982 में संलग्न प्रपत्र सी ए (I)S, में दाखिल करनी होगी। अपील पर 200 पैसे मात्र का कोर्ट फी स्टैम्प होना अनिवार्य है तथा इसके साथ यह निर्णय अथवा उसकी प्रति होनी आवश्यक है।
Any appeal should be duplicate and should be filed in form CA(I) appended to the Customs (Appeals) Rules, 1982. The appeal should bear a Court fee stamp of 200 paise only and should be accompanied by this or a copy thereof.
- 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 दिए गए प्रावधानों की गैर अनुपालना के कारण अस्वीकार किया जा सकता है।
Any person desirous of appealing against this Order or decision shall, pending the appeal, deposit this duty demand or the penalty levied therein and produces proof of such payment along with the appeal, failing which the appeal liable to be rejected for non-compliance with the provisions of Section 129E of the Customs Act, 1962.

o/c

Subject: De-novo adjudication arising out of order no. CUSTA/28/2024, CUSTA/29/2024, CUSTA/30/2024, CUSTA/31/2024 IA NO. GA/1/2024, GA/2/2024 DATED 22.05.2024 passed by Hon'ble High Court Kolkata in the matter of erroneous refund of Rs. 12,69,084 (Rupees Twelve lakhs Sixty Nine thousands and eighty four only) to M/s Citizen Umbrella Manufacturers Ltd. (IEC No. 0296016080) - reg.

Brief Facts

1. M/s Citizen Umbrella Manufacturers Ltd. (IEC No. 0296016080) [hereafter being referred to as 'claimant'] having office address at 147, Mahatma Gandhi Road, Kolkata-700007, West Bengal have filed an application for refund of Rs. 10,78,721 (Rupees Ten Lakh Seventy Eight Thousand Seven Hundred and Twenty One only) under Section 27(1) of the Custom Act 1962 deposited against Order-in-Original No. KOL/CUS/DC/5796/ARS/2016 DT. 30.11.2016, KOL/CUS/DC/5098/ARS/2016 DT. 28.10.2016, KOL/CUS/DC/5104/ARS/2016 DT. 28.10.2016, KOL/CUS/DC/6593/ARS/2016 DT. 30.11.2016 submitted vide SEVOTTAM RECEIPT SI.No. 007642 dated 11.06.2024 arising out of order no. CUSTA/28/2024, CUSTA/29/2024, CUSTA/30/2024, CUSTA/31/2024 IA NO. GA/1/2024, GA/2/2024 DATED 22.05.2024 passed by Hon'ble High Court Kolkata.

2. The claimant was sanctioned refund of SAD vide refund orders on the sale of the goods imported as per following table:

| Sl.No. | Refund Order and date | SAD Refund amount (in Rs.) |
|--------|-----------------------------|-------------------------------|
| 1. | 3201/2014-15 dt. 27.08.2014 | 3,60,362/- |
| 2. | 4289/2014-15 dt. 28.11.2014 | 4,49,957/- |
| 3. | 3736/2014-15 dt. 26.09.2014 | 2,90,649/- |
| 4. | 4102/2014-15 dt. 17.11.2014 | 1,68,116/- |

3. In terms of the notification no. 102/2007 Customs, dated 14.09.2007, read with, para 6 of the circular No. 6/2008-Customs dated 28.04.2008 and para 2(vii) of Circular No. 16/2008-Customs dated 13.10.2008, the importer may submit a certificate from the statutory auditor/CA who certifies the annual accounts of the importer certifying that the burden of 4% Special Additional Duty has not been passed on by the importer to the buyer in order to fulfil the condition laid down in para 2(b) of the notification in order to get the refund of 4% Special Additional duty.

4. Later, in course of scrutiny and verification of the authenticity of the Chartered Accountant's certificate from the ICAI website through the membership number provided in the aforementioned CA certificate, it was revealed that the name of the said Chartered Accountant has been removed from the list of the Chartered Accountant, as the said Chartered Accountant had expired.

5. Thus, it was alleged that the importer has knowingly and deliberately submitted a forged and fabricated certificate of Chartered Accountant to fulfil the unjust enrichment condition to get refund of 4% Special Additional Duty paid at the time of importation. Accordingly, importer failed to comply necessary criteria as laid down in the notification no. 102/2007-Customs,

dated 14.09.2007, read with para 6 of the circular No. 6/2008-Customs dated 28.04.2008 and para 2(vii) of Circular no. 16/2008-Customs dated 13.10.2008.

6. In view of the above facts, the Deputy Commissioner (ARS) confirmed demand of erroneously refund amount of Special Additional Duty in terms of Section 28(4) of the Customs Act 1962 along with interest thereon under Section 28AA ibid and also imposed penalty equal to the refund of SAD amount along with interest under section 114A of the Customs Act, 1962 against the claimant as mentioned below:

| Sl.NO. | O-I-O No. & Date (Confirm Demand Order) | Amount (in Rs.) |
|--------|--|--|
| 1 | KOL/CUS/DC/5796/ARS/2016 DT. 30.11.2016 | Demand-3,60,362/- & Penalty- 3,60,362/- |
| 2 | KOL/CUS/DC/5098/ARS/2016 DT. 28.10.2016 | Demad-4,49,957/- & Penalty- 4,49,957/- |
| 3 | KOL/CUS/DC/5104/ARS/2016 DT. 28.10.2016 | Demand-2,90,649/- & Penalty- 2,90,649/- |
| 4 | KOL/CUS/DC/6593/ARS/2016 DT. 29.12.2016 | Demand-1,68,116/- & Penalty- 1,68,116/- |

7. Being aggrieved by the said decision, the claimant preferred the appeal before the Ld. Commissioner of Customs (Appeals), Custom House, Kolkata.

8. The Ld. Commissioner of Customs (Appeals), Custom House, Kolkata vide Order in Appeal No. KOL/CUS(PORT)/AA/1060-1063/2017 DATED 22.09.2017 rejected the appeal of the claimant and sustained the order passed by the Deputy Commissioner (ARS).

9. Again, after being aggrieved by the order passed by the Ld. Commissioner of Customs (Appeals), Custom House, Kolkata vide Order in Appeal No. KOL/CUS(PORT)/AA/1060-1063/2017 DATED 22.09.2017 the claimant preferred the appeal before Hon'ble CESTAT, EZB Kolkata.

10. The Hon'ble CESTAT, EZB Kolkata vide Order No. FO/76477-76480/2018 DATED 18.04.2018 dismissed the appeal of the claimant and sustained the order passed by the lower adjudicating authority.

11. Further, being aggrieved by the order passed by the Hon'ble CESTAT, EZB Kolkata the claimant approached the Hon'ble High Court, Kolkata.

12. Hon'ble High Court, Calcutta vide its common order dated 22.05.2024 observed that "There is nothing on record to indicate that the appellants with certain ulterior motive and with full knowledge produced a false document stating the same to be true". And Hon'ble High Court passed the following order:

"the matter can be remanded back to the adjudicating authority for a fresh consideration, taking note of the chartered accountant certificate dated 23.11.2016 issued by R.Rampuria & Co., Chartered Accountant called upon the appellants to produced the other documents and records, afford an opportunity of personal hearing to the authorised representative of the

appellants and also the veracity of the documents and take a fresh decision on merits and in accordance with law without being in any manner influenced by any of the observations made in the earlier orders, which have been set aside."

13. Further vide Office note dated 16.07.2024, Appraising Legal (Port) Custom House, Kolkata intimated that the above Order passed by Hon'ble High Court has been accepted by the Commissioner of Customs (Port) Kolkata.

14. Further, the claimant submitted a letter dated 31.05.2024 of R. Rampuria & Company, in which they confirm that they have issued (04) four certificates on 23.11.2016 with regard to the imports wherein the Special Additional Duty was paid and refund under notification no. 102/2007 dated 14.09.2007 as amended was sought by the company.

Personal Hearing

De novo proceedings have been taken up and for the sake of natural justice the claimant/their authorized representative was given an opportunity to be heard on 16.07.2024. The authorized representative Mr. Ravi Sharma stated that in 2014 Chartered Accountant Certificate was acquired through an Agent. They had not any knowledge about the veracity of the certificate. He also assured to submit fresh Chartered Accountant Certificate from this statutory auditor with UDIN. Accordingly, R. Rampur & Company has submitted 04 (Four) Chartered Accountant Certificates with UDIN vide Sevottam Receipt Sl. No. 009564 dated 24.07.2024.

Discussion and Findings

I have carefully gone through the case record submitted by the Claimant and find that:-

1. M/s Citizen Umbrella Manufacturers Ltd. (IEC No. 0296016080) having office address at 147, Mahatma Gandhi Road, Kolkata-700007, West Bengal has submitted the refund application vide SEVOTTAM RECEIPT Sl.no. 007642 dated 11.06.2024 for refund of Rs. 10,78,721 (Rupees Ten Lakh Seventy Eight Thousand Seven Hundred and Twenty One only) deposited against Order-in-Original No. KOL/CUS/DC/5796/ARS/2016 DT. 30.11.2016, KOL/CUS/DC/5098/ARS/2016 DT. 28.10.2016, KOL/CUS/DC/5104/ARS/2016 DT. 28.10.2016, KOL/CUS/DC/6593/ARS/2016 DT. 30.11.2016 arising out of order no. CUSTA/28/2024, CUSTA/29/2024, CUSTA/30/2024, CUSTA/31/2024 IA NO. GA/1/2024,GA/2/2024 DATED 22.05.2024 passed by Hon'ble High Court Kolkata. The application was filed well within the prescribed time limit...

2. The claimant was sanctioned refund of SAD vide refund orders on the sale of the goods imported as per following table:

| Sl.No. | Refund Order and date | SAD Refund amount (in Rs.) |
|--------|-----------------------------|----------------------------|
| 1. | 3201/2014-15 dt. 27.08.2014 | 3,60,362/- |
| 2. | 4289/2014-15 dt. 28.11.2014 | 4,49,957/- |

| | | |
|----|-----------------------------|------------|
| 3. | 3736/2014-15 dt. 26.09.2014 | 2,90,649/- |
| 4. | 4102/2014-15 dt. 17.11.2014 | 1,68,116/- |

3. In terms of the notification no. 102/2007 Customs, dated 14.09.2007, read with, para 6 of the circular No. 6/2008-Customs dated 28.04.2008 and para 2(vii) of Circular No. 16/2008-Customs dated 13.10.2008, the importer may submit a certificate from the statutory auditor/CA who certifies the annual accounts of the importer certifying that the burden of duty has not been passed by the importer to buyer. Later, in course of scrutiny and verification of the authenticity of the Chartered Accountant's certificate from the ICAI website through the membership number provided in the aforementioned CA certificate, it was revealed that the name of the said Chartered Accountant has been removed from the list of the Chartered Accountant, as the said Chartered Accountant had expired.

4. Thus, it was alleged that the importer has knowingly and deliberately submitted a forged and fabricated certificate of Chartered Accountant to fulfil the unjust enrichment condition to get refund of 4% Special Additional Duty paid at the time of importation. Accordingly, importer failed to comply necessary criteria as laid down in the notification no. 102/2007-Customs, dated 14.09.2007, read with para 6 of the circular No. 6/2008-Customs dated 28.04.2008 and para 2(vii) of Circular no. 16/2008-Customs dated 13.10.2008. Accordingly, the Deputy Commissioner (ARS) confirmed demand of erroneously refund amount of Special Additional Duty in terms of Section 28(4) of the Customs Act 1962 along with interest thereon under Section 28AA ibid and also imposed penalty equal to the refund of SAD amount along with interest under section 114A of the Customs Act, 1962 against the claimant.

5. Being aggrieved by the said decision, the claimant preferred the appeal before the Ld. Commissioner of Customs (Appeals), Custom House, Kolkata. However, the Ld. Commissioner of Customs (Appeals) rejected the appeal of the claimant and sustained the order passed by the Deputy Commissioner (ARS).

6. Further, being aggrieved by the order passed by the Ld. Commissioner of Customs (Appeals), Kolkata the claimant preferred to appeal before the Hon'ble CESTAT EZB, Kolkata but Hon'ble CESTAT EZB Kolkata also dismissed the appeal of the claimant and sustained the order passed by the lower adjudicating authority.

7. Being aggrieved by the order passed by CESTAT EZB, Kolkata the claimant approached the Hon'ble High court Kolkata. Hon'ble High Court, Calcutta vide its common order dated 22.05.2024 observed that "There is nothing on record to indicate that the appellants with certain ulterior motive and with full knowledge produced a false document stating the same to be true". And Hon'ble High Court passed the following order:

"the matter can be remanded back to the adjudicating authority for a fresh consideration, taking note of the chartered accountant certificate dated 23.11.2016 issued by R.Rampuria & Co., Chartered Accountant called upon the appellants to produced the other documents and records, afford an opportunity of personal hearing to the authorised representative of the appellants and also the veracity of the documents and take a fresh decision

on merits and in accordance with law without being in any manner influenced by any of the observations made in the earlier orders, which have been set aside."

8. Further vide Office note dated 16.07.2024, Appraising Legal (Port) Custom House, Kolkata intimated that the above Order passed by Hon'ble High Court has been accepted by the Commissioner of Customs (Port) Kolkata.

9. For the sake of natural justice the claimant/their authorized representative was given an opportunity to be heard on 16.07.2024. The authorized representative Mr. Ravi Sharma stated that in 2014 Chartered Accountant Certificates were acquired through an Agent. They had not any knowledge about the veracity of the certificates. He also assured to submit fresh Chartered Accountant Certificate from this statutory auditor with UDIN. Accordingly, R. Rampur & Company CA Rajendra Rampuria having membership No. 108771 and firm Regn. no. 325211E has submitted 04 (Four) Chartered Accountant Certificates with UDIN: 24108771BKBHNF6718, 24108771BKBHNC6558, 24108771BKBHNE1000, 24108771BKBHND5930 vide Sevottam Receipt Sl. No. 009564 dated 24.07.2024. Vide these Certificates, CA Rajendra Rampuria certifies that -

(i) As required for examination of the principle of unjust enrichment in the case before sanction of refund under Notification No. 102/2007 dated 14.09.2007, this is certified that the burden of 4% CVD/SAD has not been passed on by the importer, M/s Citizen Umbrella Manufacturers Ltd. to the buyer of the goods imported against these bills of entries, and that they fulfil the requirement of unjust enrichment.

(ii) After examination/audit the records it is verified from records, that the details as given in the declaration/declaration of the calculation/Summary of sale invoices are true details thereof.

(iii) It is certified that appropriate Sales Tax CST/VAT on the goods imported against the bill of entry has been paid to the respective State Government through Cash Challan/VAT Credit Adjustment.

(iv) The refund being claimed herein being shown in the Books of Account/Balance sheet as "Amount due as refund of additional duty of Customs" and same amount has not been passed on to the buyers of the sale of goods.

10. Certificates submitted by R. Rampur & Company CA Rajendra Rampuria having membership No. 108771 and firm regn no. 325211E have been verified from the ICAI website.

11. On verification of the SAD Receivable Ledger Account for the Financial year 2014-2015, it has been found that Rs. 12,69,084 has been paid against Bill of entries for that SAD refund had been claimed.

11. Moreover all the relevant documents like Sale bills pertaining to the refund, relevant VAT, CST have been given by the claimant.

13. All these relevant documents makes it clear that the amount SAD Paid by the importer has not been passed to the buyer and so the question of unjust enrichment does not arise.

In view of the above facts, I pass the following order-

ORDER

1. I drop the proceedings initiated by Order In Originals No. KOL/CUS/DC/5796/ARS/2016 DT. 30.11.2016, KOL/CUS/DC/5098/ARS/2016 DT. 28.10.2016, KOL/CUS/DC/5104/ARS/2016 DT. 28.10.2016, KOL/CUS/DC/6593/ARS/2016 DT. 30.11.2016 for demand of erroneously refunded SAD amount of Rs. 3,60,362/-, Rs. 4,49,957/-, 2,90,649/- & 1,68,116/- respectively in respect of M/s Citizen Umbrella Manufacturers Ltd. (IEC No. 0296016080) having office address at 147, Mahatma Gandhi Road, Kolkata-700007, West Bengal under Section 28 of the Customs Act 1962.

2. I also make it clear that if, later on any of the information or documents submitted by the said importer is found incorrect, manipulated or fraudulent, and in any other event as considered fit, the refund amount is recoverable under Section 28(1)/28(4) along with interest under Section 28AA ibid as well as further action that may be warranted under Customs Act 1962.

29-11-2024

SOFIUL ALAM

Signed by Sofiul Alam

Assistant Commissioner of Customs Date: 29-11-2024 07:35:20

Appraising Refund Section (Port)

Custom House, Kolkata

To,

M/S Citizen Umbrella Manufacturers Ltd. (IEC No. 0296016080)
147, Mahatma Gandhi Road, Kolkata-700007, West Bengal

Copy for information and necessary action to the:

1. Principal Commissioner of Custom (Port), Kolkata.
2. The Deputy/Assistant Commissioner, Review Cell (Port), Custom House, Kolkata.
3. The Deputy/Assistant Commissioner, Central Adjudication Cell (Port), Custom House, Kolkata.
4. The Deputy/Assistant Commissioner, STRC (Port), Custom House, Kolkata to withdraw the detention notice issued against M/S Citizen Umbrella Manufacturers Ltd. (IEC No. 0296016080) for amount Rs. 3,60,362/- along with penalty of Rs. 3,60,362/-.
5. Office Copy.

Assistant Commissioner of Customs
Appraising Refund Section (Port)
Custom House, Kolkata

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DIN report

DIN-20241176NN000000BB12

Date of generation of DIN

29/11/2024

Name of the office issuing the document

Kolkata(Port) Customs Commissionerate

Name of the officer generating the DIN

Leena Bose

Designation of the officer generating the DIN

Inspector / Examiner / Intelligence Officer

File number

CUS/RFD/MISC/569/2024-REF

Date of issuing document

29/11/2024

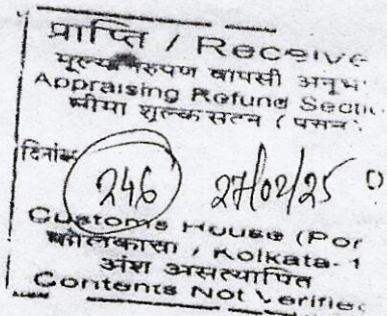
Subject of the communication (document)

Category of the communication (document)

Other Communication

Selected





Abhishek (10)
22/2



भारत सरकार / GOVERNMENT OF INDIA
सीमा शुल्क प्रधान आयुक्त का कार्यालय (पत्तन)
OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS (PORT)
सीमा शुल्क सदन, 15/1 स्ट्रैंड रोड, कोलकाता- 700001 (प. बं.)
CUSTOM HOUSE, 15/1 STRAND ROAD, KOLKATA- 700001 (WB)
Tel: 033-2243 6493 Fax No.: 033- 2243 6493 Email Id: prcommr-port-cusko@gov.in

कार्यालय नोट / OFFICE NOTE

विषय: मूल आदेश क्रमांक की समीक्षा के संबंध में

Subject:- Review of Order-In-Original - Reg.

| Sl. No. | मूल आदेश क्रमांक Order-In-Original Number | आदेश की तारीख Order Date | पार्टी का नाम Name of the Party | ई फाइल संख्या Enfile No. | स्वीकृति की तिथि Date of Acceptance |
|---------|--|-----------------------------|-------------------------------------|---|--|
| 1 | KOL/CUS/AC/ARS(PORT)/778/2024 | 06.12.2024 | M/S Raaida Exim Pvt Ltd | GEN/REV/OIO/22973/2024- REV-O/O PR COMM-R-CUS- PORT-KOLKATA | 25.02.2025 |
| 2 | KOL/CUS/AC/ARS(PORT)/826/2024 | 13.12.2024 | M/S Jade International | GEN/REV/OIO/719/2025- REV-O/O PR COMM-R-CUS- PORT-KOLKATA | 26.02.2025 |
| 3 | KOL/CUS/AC/ARS(PORT)/765/2024 | 03.12.2024 | Shri Amrit Shethiya | GEN/REV/OIO/23052/2024- REV-O/O PR COMM-R-CUS- PORT-KOLKATA | 06.02.2025 |
| 4 | KOL/CUS/AC/ARS(PORT)/773/2024 | 05.12.2024 | Shri Deepak Lalji Mange | GEN/REV/OIO/23070/2024- REV-O/O PR COMM-R-CUS- PORT-KOLKATA | 24.02.2025 |
| 5 | KOL/CUS/AC/ARS(PORT)/757/2024 | 29.11.2024 | M/S CITIZEN UMBRELLA MANUFACTURERES | GEN/REV/OIO/22183/2024- REV-O/O PR COMM-R-CUS- PORT-KOLKATA | 21.02.2025 |
| 6 | KOL/CUS/AC/ARS(PORT)/743/2024 | 27.11.2024 | M/S CHEMSILK COMMERCE PVT LTD | GEN/REV/OIO/21656/2024- REV-O/O PR COMM-R-CUS- PORT-KOLKATA | 20.02.2025 |
| 7 | KOL/CUS/AC/ARS(PORT)/783/2024 | 06.12.2024 | M/S Supreme Sales Agency | GEN/REV/OIO/23079/2024- REV-O/O PR COMM-R-CUS- PORT-KOLKATA | 21.02.2025 |
| 8 | KOL/CUS/AC/ARS(PORT)/753/2024 | 28.11.2024 | M/S AAHANA COMMERCE PVT LTD | GEN/REV/OIO/22164/2024- REV-O/O PR COMM-R-CUS- PORT-KOLKATA | 20.02.2025 |
| 9 | KOL/CUS/AC/ARS(PORT)/739/2024 | 27.11.2024 | M/S OM GLASS CENTRE | GEN/REV/OIO/21653/2024- REV-O/O PR COMM-R-CUS- | 20.02.2025 |

| | | | | | |
|----|-------------------------------|------------|--|--|------------|
| | | | | PORT-KOLKATA | |
| 10 | KOL/CUS/AC/ARS(PORT)/788/2024 | 09.12.2024 | M/S Steel Authority Of India Limited | GEN/REV/OIO/23081/2024- REV-O/O PR COMMR-CUS- PORT-KOLKATA | 20.02.2025 |

सूचित किया जाता है कि उपरोक्त मूल आदेश को सीमा शुल्क आयुक्त (पोर्ट) द्वारा स्वीकार कर लिया गया है।

It is to intimate that the above Order-in-original has been accepted by the Pr. Commissioner/the Commissioner of Customs (Port)

F. NO.: S(MISC)-OIO-334/2020(R/C)

दिनांक/Date -26.02.2025

Handwritten Signature
26/02/25
मूल्यांकक/अधीक्षक सीमा शुल्क
Appraiser/Superintendent of Customs
समीक्षा कक्ष (पोर्ट)/Review Cell (Port)
सीमा शुल्क भवन, कोलकाता
Custom House, Kolkata

To,
The Appraiser/Superintendent of Customs,
ARS (Port)
Custom House, Kolkata