

**REGISTERED
SPEED POST**



**F. No. 372/40/B/2018-RA
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
(REVISION APPLICATION UNIT)**

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

Date of Issue.. 7/1/21

ORDER No. 04/2021 dated 06-01-2021 OF THE GOVERNMENT OF INDIA, PASSED BY SHRI SANDEEP PRAKASH, ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA, UNDER SECTION 129 DD OF THE CUSTOMS 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/990/2018 dated 01.06.2018 passed by Commissioner of Customs (Appeals), Kolkata.

Applicant : Shri Sumir Kumar Rai, Howrah.

Respondent : Commissioner of Customs (Airport), Kolkata.

ORDER

A Revision Application No. 372/40/B/2018-RA dated 25/06/2018 has been filed by Sh. Sumir Kumar Rai, Howrah (hereinafter referred to as the applicant) against the Order-in-Appeal No. Kol/CUS (Airport)/AA/990/2018 dated 01.06.2018 passed by Commissioner of Customs (Appeals), Kolkata wherein the appeal filed by the applicant against Order-in-Original No.18/2017 DC dated 27/07/2017 has been rejected.

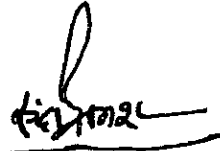
2. Brief facts of the case are that the applicant was apprehended at Kolkata airport for attempting to import 03 pcs of 24 karat gold chains, weighing 136.8 grams and valued at Rs. 3,50,208/- in his pocket without declaring them to the Customs. The original authority confiscated the said gold chains absolutely and also imposed an equal penalty of Rs. 3,50,208/- on the applicant under Sections 112(a) and 112(b) of Customs Act, 1962. Aggrieved, the applicant appealed against this order to Commissioner (Appeals) who rejected the appeal as time barred without going into the merits of the case.

3. Personal hearing was held on 04/01/2021 in virtual mode. Shri Barinder Singh, Consultant, appeared for the applicant and reiterated the contents of the revision application and written submissions dated 04/01/2021. He stated that the Commissioner (Appeals) has rejected the appeal as time barred without going into the merits of the case whereas the appeal should have been accepted

keeping in view the case laws relied upon in Para 15 of the written submission dated 04/01/2021. No one appeared for the respondent and no request for adjournment has also been received. Hence the matter is taken up for decision on the basis of facts and records available.

4. Government has examined the revision application, Commissioner (Appeals)'s order and other records of the case. The Order-in Original was issued on 27/07/2017. Commissioner (Appeals) has rejected the applicant's appeal on the issue of time bar without going into the merits of the case as the appeal was filed on 27/12/2017, after expiry of 150 days. The applicant has averred in the revision application and written submissions that the Order-in-Original was received by him on 11/12/2017 in response to his application under RTI Act and the appeal before Commissioner (Appeals) was filed within 16 days from the date of receipt of the Order-in-Original and the department could not produce any evidence that the applicant had received the order earlier than 11/12/2017 or the said order was returned undelivered. It is, therefore, considered appropriate by the Government that the case may be looked into, afresh, by the Commissioner (Appeals), keeping in view the arguments put forth by the applicant regarding service of the order-in-original and after due verification of records. In case after such verification, the appeal is found to be filed within time, it may be decided on merits.

5. The revision application is allowed by way of remand with directions as above.



(Sandeep Prakash)

Additional Secretary to the Government of India

Mr. Sumir Kumar Rai
S/O Sh. Sabhpati Rai,
16/3, Haru Mistry Lane,
PO-B Garden, PS Shibpur,
Howrah- 711103, West Bengal.

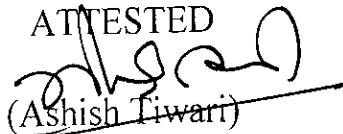
G.O.I. Order No. 04/21-Cus dated 06-01/2021

Copy to:-

1. Commissioner of Customs (Airport and Administration), Kolkata.
2. Commissioner of Customs (Appeals), Kolkata.
3. Shri Barinder Singh, Consultant, 14, Hare Street, 1st Floor, Room No. 9, Kolkata-700001.
4. PA to AS(Revision Application)
5. Guard File

6. Spare Copy

ATTESTED



(Ashish Tiwari)

Assistant Commissioner