

SPEED POST



F.No. 375/07/B/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. 13/1/21.....

Order No. 05/21-Cus dated 13-01-2021 of the Government of India passed by Sh. Sandeep Prakash, 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.CC(A)Cus/D-I/Air/ 578/ 2017 dated 28.12.2017 passed by the Commissioner of Customs (Appeals), New Customs House, Near IGI Airport, Delhi-110037

Applicant : Mr. Mohd Naim

Respondent : Commissioner of Customs (Airport & General), New Delhi

**ORDER**

A Revision Application No. 375/07/B/2018-RA dated 15.01.2018 has been filed by Sh. Mohd Naim, (hereinafter referred to as the applicant) against the Order-in-Appeal No. CC(A)Cus/D-I/Air/578/2017 dated 28.12.2017 passed by the Commissioner of Customs (Appeals), New Customs House, Near IGI Airport, Delhi-110037. Commissioner (Appeals) has upheld the order of the Joint Commissioner of Customs, IGI Airport, Terminal-3, New Delhi bearing no. 20/J.C./R.R./2015 dated 05.03.2015 wherein ten gold bars, which were recovered from the applicant, collectively weighing 1166.40 grams valued at Rs. 30,91,187/-, have been confiscated. The adjudicating authority has also imposed a penalty of Rs. 3,00,000/- under Sections 112(a) & 114AA of the Customs Act, 1962 on the applicant, which has been maintained in appeal.

2. The brief facts of the case are that the applicant arrived on 27.02.2014 at IGI Airport from Riyadh and was intercepted near the exit gate of the arrival hall after he had crossed the Customs Green Channel. After search of his person and of his baggage ten gold bars, concealed in socks he was wearing, were recovered from his possession. The gold bars were of 999.9 purity, weighing 1166.40 grams and were appraised at Rs. 30,91,187/- by the Jewellery Appraiser at IGI airport. The applicant in his statement, recorded under Section 108 of the Customs Act, 1962, admitted the concealment and recovery of gold bars.

3. The revision application has been filed canvassing that the passenger had orally declared the gold kept on his person; that seized Gold is not a prohibited item and hence may be released on payment of redemption fine and penalty. It is further contended that the gold was not concealed as the applicant never went out of the customs bonded area.

4. Personal hearing was granted on 22.10.2019, 14.11.2019, 23.01.2020, 17.12.2020 and 12.01.2021. Sh. Abhishek Jain, Advocate, appeared on behalf of the applicant on 17.12.2020 and stated that the case has been assigned to them by the applicant only recently. Therefore, the Personal hearing may be adjourned to mid January, 2021. Personal hearing was again held on 12.01.2021. Sh. Jain, Advocate, appeared on behalf of the applicant and stated he has not yet got the vakalatnama from the applicant and requested for adjournment. His attention was drawn to proceedings dated 17.12.2020 where adjournment was granted at this request. Sh. Jain fairly admitted that in the current position, he cannot be taken to be representing the Applicant. Sh. Ram Phul Bairwah, Superintendent, appeared on behalf of the respondent. He reiterated the findings of the authorities below and requested that revision applicant be rejected. Sufficient opportunity has been provided to the applicant to present his case. Hence, the revision application is taken up for disposal.

5. On examination of the relevant case records, the Commissioner (Appeals)'s order and the Revision application, it is observed that the revision application has been filed without depositing the fee of Rs. 1,000/- as per the provisions of sub-

section 3 of Section 129DD of the Customs Act, 1962. As per sub-section 3 of Section 129DD *ibid*, a revision application shall be accompanied by a fee of Rs.1000/- when the amount of duty and interest demanded, fine or penalty levied by an officer of customs in the case to which the application relates is more than one lakh rupees. This requirement of payment of fee before or at the time of filing the application is mandatory and no relaxation in this regard is provided under the law. Thus, if any application is not accompanied by the specified fee, such application is not maintainable under Section 129DD *ibid*. It is also on record that the applicant was, *vide* letters dated 26.03.2018, 07.10.2019, 22.10.2019, 14.11.2019 and 27.11.2020, required to submit the proof that the mandatory fee had been deposited but the applicant failed to do so. Therefore, Government holds that the instant revision application is not maintainable as it is not accompanied by the fee provided under Section 129DD (3).

6. In view of the above, the revision application is rejected.



(Sandeep Prakash)

Additional Secretary to the Government of India

1. Mr. Mohd. Naim , H. No. 483, Mehmood Nagar, P.S. Civil Lines, District Muzaffar Nagar, Uttar Pradesh.
2. The Commissioner of Customs, IGI Airport Terminal-3, New Delhi-110037

Order No. 05/21-Cus dated 13-01-2021

Copy to:

1. The Commissioner of Customs (Appeals), New Custom House, Delhi-110037
2. Assistant Commissioner of Customs, IGI Airport, Terminal-3, Delhi-110037
3. PA to AS(RA)
4. Guard File.

*15. Spare Copy.*

ATTESTED

*N Devi*

(Nirmala Devi)  
S.O (R. A.)