

REGISTERED
SPEED POST



F.No. 375/27/B/18-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... 15/1/21

Order No. 06 /21-Cus dated 15-01-2021 of the Government of India passed by Shri 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-1/Air/86/2018 dated 15.03.2018, passed by the Commissioner of Customs (Appeals), New Custom House, New Delhi

Applicant : Mr. Mohd. Rashid, New Delhi

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

ORDER

A Revision Application No.375/27/B/18-RA dated 05.04.2018 has been filed by Shri Mohd. Rashid, New Delhi (hereinafter referred to as the applicant) against the Order No.CC(A)Cus/D-1/Air/86/2018 dated 15.03.2018, passed by Commissioner of Customs (Appeals), New Delhi. Commissioner (Appeals) has upheld the order of the Additional Commissioner of Customs, IGI Airport, Terminal-3, New Delhi bearing no. 137/2016 dated 16.09.2016 wherein two rods made of gold, which were recovered from the applicant, collectively weighing 300 grams valued at Rs. 7,42,181/-, have been confiscated. The adjudicating authority has also imposed a penalty of Rs. 1,50,000/- 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 03.05.2015 at IGI Airport from Sharjah 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 two rods made of gold, concealed in sandwich maker, were recovered from his possession. The gold rods were of 995 purity, weighing 300 grams, and were appraised at Rs.7,42,181/- 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 rods. Applicant further stated that the sandwich maker which contains gold rods was handed over to him by his uncle at Sharjah for onward delivery to one of his friends who would come to airport to collect the

sandwich maker. In return, he was given 200 Dirhams and return ticket from Sharjah to Delhi. The revision application is filed mainly on the ground that the applicant was having no knowledge that the sandwich maker contains the gold; that he was merely a carrier and in return he has got only 200 Dirhams and return ticket, therefore, the personal penalty of Rs. 1,50,000/- may be reduced.

3. A personal hearing in virtual mode was held on 14.01.2021. Sh. S.S. Arora, Advocate, appeared on behalf of the applicant and stated that applicant was merely a carrier. Hence the penalty imposed is on higher side. Sh. R.P. Bairwah, Superintendent, appeared on behalf of the respondent. He reiterated the findings of the authorities below and requested that revision applicant be rejected. Written submissions dated 14.01.2021 have also been filed on behalf of the applicant.

4. From the revision application it is evident that the applicant does not dispute the Commissioner (Appeals)'s order regarding confiscation of the goods which were brought by him illegally from Sharjah in violation of Customs Act and the Foreign Trade (Development and Regulation) Act 1992 and his request is limited to a point that the penalty should be reduced as he was only a carrier .

4. The Government has carefully examined the case records and the submissions made. In the facts and circumstances of the case, specifically as the goods have been absolutely confiscated (which is not under challenge), the Government holds that a penalty of Rs. 1,00,000/- would be just and fair.

5. The revision application is disposed of accordingly, and the Commissioner (Appeals)'s order is modified in above terms.



(Sandeep Prakash)

Additional Secretary to the Government of India

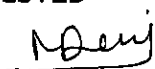
Mr. Mohd Rashid
H. No. 54/1, Mohalla Shekhan Dargan Upper
Kote P.O./P.S. Kotwali Nagar Buld Shahar, Uttar Pradesh
New Delhi 110024

Order No. 06/21-Cus dated 15-01-2021

Copy to:

1. Commissioner of Customs (Airport & General), IGI Airport Terminal-3, New Delhi-110037
2. Commissioner of Customs (Appeals), New Custom House, Near IGI Airport, New Delhi
3. Additional Commissioner of Customs, IGI Airport, New Custom House, New Delhi
4. Shri S.S. Arora, Advocate, B-1/71, Safdarjung Enclave, New Delhi -110029
5. PA to AS(RA)
6. Guard File.
7. Spare Copy

ATTESTED



(Nirmala Devi)

Section Officer (Revision Application)