

SPEED POST



F. No. 372/46/18—R.A.
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. 19/1/21.....

Order No. 08/21-CUS dated 19-01-2021 of the Government of India, passed by Shri Sandeep Prakash, Additional Secretary to the Government of India, under Section 129DD of the Customs Act, 1962.

Subject: Revision Application filed under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal No. KOL/CUS (AIRPORT)/AA/809/2018 dated 01/05/2018 passed by Commissioner of Customs (Appeals), Kolkata.

Applicant: Sh. Awtar Singh, Kolkata.

Respondent: Commissioner of Customs (Airport & Admn.), Kolkata.

ORDER

A Revision Application No. 372/46/B/18—R.A. dated 06/07/2018 is filed by Sh. Awtar Singh, Kolkata (hereinafter referred to as applicant) against Order-in-Appeal no. KOL/CUS(AIRPORT)/AA/809/2018 dated 01/05/2018 passed by Commissioner of Customs (Appeals), Kolkata wherein the Order-in-Original dated 25/10/2017 passed by Deputy Commissioner of Customs, Kolkata absolutely confiscating 3 cartons of Cigarettes worth Rs. 9000/-, confiscating miscellaneous goods worth Rs. 3,91,675/- and allowing them to be redeemed on payment of Rs. 78,335/- as fine and imposing a penalty of Rs. 40,068/- on the applicant has been upheld.

2. The revision application has been filed mainly on the grounds that the Commissioner (Appeals) has erred by not considering the invoices produced by the applicant and accepting the valuation done by the original authority which is high.

3. Personal hearing was held on 18.01.2021 in virtual mode. Sh. Nilotpal Chaudhury appeared for the applicant and reiterated the contents of the revision application and written submissions dated 18/01/2021. He fairly admitted that the goods were in commercial quantity but these are not prohibited items and should be released on imposition of nominal fine and as per invoiced produced. Further, penalty is not imposable in the present case. No one appeared for the respondent and no request for adjournment has also been received. Hence the matter is taken up for disposal on the basis of facts available on record.

4. The Government has examined the matter. The applicant has admitted that the goods imported by him were in commercial quantity. It is observed that these goods cannot be termed as bonafide baggage as per Baggage Rules, 1998. It has not been disputed by the applicant that he was a frequent and short visit passenger and his baggage was under adjudication on two earlier occasions also. Hence, the Government agrees with the observation of the Commissioner (Appeals) that the applicant was a habitual offender. The applicant could not produce any licit documents or invoices at the time of detention of goods on his arrival and subsequently produced hand-written invoices which appear to be an after-thought. The valuation was done by an Appraiser and appears to be appropriate. The redemption fine of Rs. 78,335/- (20% of the value of goods) and the penalty of Rs. 40,068/- (10% of the value of goods) merit no further leniency, specifically taking into consideration the fact that the applicant was a frequent offender. Hence, the Government does not find any reason to interfere with the impugned order of Commissioner (Appeals).

5. The revision application is rejected.



(Sandeep Prakash)

Additional Secretary to the Government of India

Sh. Awtar Singh,
S/o Sh. Harbans Singh,
Madurdaha, Ambalika Apartment. flat No. 101.
P.O. - E. K. T.
Kolkata-700107

G.O.I. Order No. 08/21-Cus 19-01-2021
08/21-Cus dated 2021

Copy to:-

1. Commissioner of Customs (Airport and Administration), Kolkata.
2. Commissioner of Customs (Appeals), Kolkata.
3. Shri Nilotpal Chaudhury, Advocate, Hastings Chambers, Room No. B/G (Basement),
7C, K. S. Roy Road, Kolkata-700001.
4. PA to AS(Revision Application)
5. Guard File

6. Spare Copy

ATTESTED

(Ashish Tiwari)
Assistant Commissioner (R.A.)