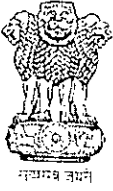


SPEED POST



**F. No. 372/15/B/2019—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 20/11/21.....

Order No. 09/21-CUS dated 20-01-2021 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/98/2019 dated 07/02/2019 passed by Commissioner of Customs (Appeals), Kolkata.

Applicant: Mr. Shamim Ur Rahman, Delhi.

Respondent: Commissioner of Customs (Airport) Kolkata.

ORDER

A Revision Application No. 372/15/B/19—R.A. dated 01/04/2019 is filed by Mr. Shamim Ur Rahman, Delhi (hereinafter referred to as applicant) against the Order-in-Appeal No. KOL/CUS (AIRPORT)/AA/98/2019 dated 07/02/2019 passed by Commissioner of Customs (Appeals), Kolkata wherein the applicant's appeal against Order-in-Original dated 15/09/2018 passed by Assistant Commissioner of Customs, Kolkata has been rejected as time barred.

2. The revision application has been filed mainly on the grounds that the Commissioner (Appeals) has erred by rejecting the appeal on the issue of time-bar and not having considered the case on merits.

3. Personal hearing was held on 20.01.2021 and was attended by Ms. Sangita Bhayana, Advocate along with the applicant. She reiterated the contents of the revision application. She submitted that the Order-in-Original was received by the applicant on 15/09/2018 and appeal was filed on 18/12/2018. As 15/12/2018 and 16/12/2018 were public holidays (being Saturday and Sunday), the appeal could not be filed on these days. Thus delay is only of one day beyond the condonable period of 30 days. She prayed for delay to be condoned on humanitarian grounds as the applicant's daughter is getting married in near future. No one appeared for the respondent and no request for adjournment has also been received. Thus the matter is taken up for disposal on the basis of facts available on records.

4. The Government has examined the matter. As per Section 128 of the Customs Act, 1962, an appeal has to be filed before Commissioner (Appeals) within 60 days from the date of communication of the impugned order. In terms of the Proviso to Section 128, the Commissioner (Appeals) may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of 60 days, allow it to be presented within a further period of 30 days. Admittedly, the appeal in this case was filed before Commissioner (Appeals) beyond the condonable period of 30 days after the expiry of normal limitation period of 60 days. Hon'ble Supreme Court in the case of M/s Singh Enterprises vs. Commissioner of Central Excise, Jamshedpur [2007-TIOL-231-SC-CX] has, in respect of identical provisions under the Central Excise Act, 1944, held that the appellate authority has no power to allow appeal to be presented beyond the condonable period of 30 days. Thus, there is no infirmity in the impugned Order-in-Appeal.

5. The revision application is rejected.



(Sandeep Prakash)

Additional Secretary to the Government of India

Mr. Shamim Ur Rehman,
R/o 28966, Bulbuli Khana,
Bazar Sita Ram, Delhi 110 006

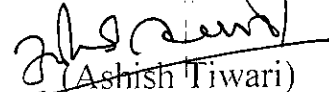
G.O.I. Order No. 09/21-Cus dated 20-01-2021

Copy to:-

1. Commissioner of Customs (Airport and Administration), Kolkata.
2. Commissioner of Customs (Appeals), Kolkata.
3. PA to AS(Revision Application)
4. Guard File

5. *Spare Copy*

ATTESTED



(Ashish Tiwari)

Assistant Commissioner (R.A.)