

SPEED POST



F.No. 375/37/B/2018-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. 22/11/21.

Order No. /0/21-Cus dated 21-01-2021 of the Government of India passed by Sh. Sandeep Prakash, 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/179/2016 dated 12.05.2017 passed by the Commissioner of Customs (Appeals), New Customs House, Near IGI Airport, Delhi-110037

Applicant : Mr. Asif Yakub Sathe

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

ORDER

A Revision Application No. 375/37/B/2018-RA dated 18.04.2018 has been filed by Sh. Asif Yakub Sathe, (hereinafter referred to as the applicant) against the Order-in-Appeal No. CC(A)Cus/D-I/Air/179/2017 dated 09.05.2017 passed by the Commissioner of Customs (Appeals), New Customs House, Near IGI Airport, Delhi-110037. Commissioner (Appeals) has upheld the order of the Additional Commissioner of Customs, IGI Airport, Terminal-3, New Delhi bearing no. 100/16-17 dated 21.06.2016 wherein five pieces of gold bars, were recovered, collectively weighing 583.20 grams valued at Rs. 14,39,361/-, have been confiscated. The adjudicating authority has imposed a penalty of Rs.3,00,000/- under Section 112 & 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 10.03.2015 at IGI Airport from Doha and was intercepted near the exit gate after he had crossed the Customs Green Channel. After search of his person and of his baggage five gold bars were recovered from his possession. The gold bars, weighing 583.20 grams and were appraised at Rs. 14,39,361/- by the Jewellery Appraiser at IGI airport.

3. The revision application has been filed canvassing that the seized Gold may be released on payment of redemption fine and penalty. The instant revision application has been filed after delay of 8 months and 6 days and no condonation of delay application has been filed.

4. Personal hearing was granted on 07.01.2020, 24.01.2020 and 20.01.2021. None appeared on behalf of the applicant on all the abovementioned dates. Sh. R.P. Bairwah, Superintendent, appeared on behalf of the department. He reiterated the order of the

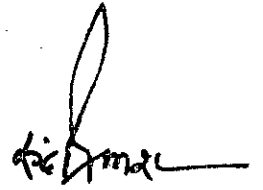
lower authorities and also highlighted that the revision application has been filed beyond the limitation period and should be rejected on this ground alone. A request for adjournment of hearing on 20.01.2021 was received from the applicant, which was rejected. Hence, the matter is being taken up for disposal.

5. On examination of the relevant case records, the Government observes that the revision application has been filed on 18.04.2018 against the OIA received on 12.05.2017, i.e., a delay of 8 months 6 days. As per Section 129DD (2) of Customs Act, 1962, the application under subsection (1) i.e. Revision application can be made within 3 months from the date of communication to the applicant of the order against which the application is being made. However, in terms of proviso to sub-section (2), the Central Government may allow applicant to present the application within a further period of 3 months if the Government is satisfied that the applicant was prevented by sufficient cause from presenting the application within the aforesaid period of 3 months. It is noted that in the present case, no application for condonation of delay has been filed along with the application. Further, vide this office letter dated 01.06.2018 and vide email dated 13.01.2021, the applicant was advised to file an application for condonation of delay, if he so desires, but there was no response from the applicant. Government observes that the revision application can be filed within a period of three months or further extended period of three months i.e. maximum period (including condonable period) within which the application can be filed is six months. In the instant case, the revision application has been filed after a delay of 8 months and 6 days. The Government is not empowered to condone the delay beyond the statutorily

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provided condonable period of three months. Therefore, even if the application for condonation of delay were to be filed by the applicant, with sufficient cause, ~~the~~ Government could not have still condoned the delay. As such, the revision application is liable to be rejected as barred by limitation.

6. The revision application is rejected, accordingly.



(Sandeep Prakash)

Additional Secretary to the Government of India

1. Mr. Asif Yakub Sathe, 247, Balakwadi Room No. 1, Halwa Pool Kurla, Pipeline
Wadiya Marg, Jai Bhawani Chowk Mumbai 400070.

Order No. 10/21-Cus dated 21-01-2021

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)