

SPEED POST



F.No. 375/70/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.. 27/5/21...

Order No. 100/21-Cus dated 25-05-2021 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. 250-Cus/Apl/Lko/2018 dated 18.04.2018, passed by the Commissioner (Appeals), Customs & CGST, Lucknow.

Applicant : Sh. Aas Mohammad, Muzaffarnagar

Respondent : The Commissioner of Customs (Preventive),  
Lucknow

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**ORDER**

A Revision Application No.375/70/B/2018-RA dated 10.08.2018 has been filed by Sh. Aas Mohammad, Muzaffarnagar (hereinafter referred to as the Applicant) against the Order-in-Appeal No. 250-Cus/Apl/Lko/2018 dated 18.04.2018 passed by the Commissioner (Appeals), Customs & CGST, Lucknow whereby the appeal filed by the Applicant against Order-in-Original No. 40/2016 dated 10.01.2017 passed by the Additional Commissioner of Customs, Lucknow, has been rejected.

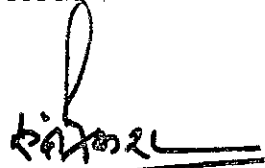
2. Briefly stated, the passenger arrived at Lucknow airport, on 13.11.2015, from Dammam via Abu Dhabi. Upon search of his person and baggage, 26 gold biscuits of 999.9 purity, weighing 3032.64 gm and valued at Rs. 80,51,659.20/-, were recovered from his hand bag. After following the principles of natural justice, the Additional Commissioner of Customs, vide the aforesaid Order-in-Original dated 10.01.2017, ordered absolute confiscation of the seized gold and imposed penalty of Rs. 7,00,000/- and Rs. 1,00,000/- upon the Applicant under Section 112 and Section 114AA of the Customs Act, respectively. The appeal filed by the applicant was rejected by the Commissioner (Appeals) as the pre-deposit of 7.5% of the penalty imposed, vide the Order-in-Original dated 10.01.2017, as required under Section 129E of the Customs Act, 1962 was not made.

3. The revision application has been filed on several grounds including on merits. In respect of the pre-deposit, it has been contended that the Commissioner (Appeals) did not give any intimation to the Applicant to deposit the required amount.

4. Personal hearing in the matter was fixed on 13.04.2021, 20.04.2021, 04.05.2021 & 25.05.2021. No one appeared for the Applicant. The respondent department was represented by Sh. Ajay Mishra, Joint Commissioner, Lucknow, in the hearing held virtually on 25.05.2021, wherein Sh. Mishra supported the Order of Commissioner (Appeals). As sufficient opportunities have been granted to the Applicant, the matter is taken up for disposal based on records.

5. The Government has examined the matter. The pre-deposit to be made under Section 129E of the Customs Act, 1962 is a mandatory requirement of law. Ignorance of law is no excuse. Even otherwise, the preamble to the Order-in-Original contains a clause drawing attention of the Applicant to the requirements of Section 129 E. Further, Appeal Memorandum, prescribed for filing appeals before the Commissioner (Appeals), contains a specific column seeking details of the pre-deposit made. Therefore, the Applicant could not even have been ignorant of this statutory requirement. In any case, even after the appeal filed by the Applicant came to be rejected on the grounds of pre-deposit not being made, at the revision stage also, there is no indication that the required pre-deposit has, now, been made. Thus, it is apparent that the Applicant despite being aware of the statutory requirements intentionally failed to comply with these requirements and has filed the instant RA on a false pretext of not being made aware of the said requirements. Therefore, there is no merit in the averments made by the Applicant and the impugned Order-in-Appeal does not merit any revision.

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



(Sandeep Prakash)

Additional Secretary to the Government of India

Sh. Aas Mohammad,  
R/o VPO Bhanghonwali, PS- New Mandi,  
Distt. Muzaffarnagar (UP) - 251 306.

Order No. 100 /21-Cus dated 25-05-2021

Copy to:

1. The Commissioner of Customs (Preventive), Kendriya Bhawan Aliganj, Lucknow-226024.
2. The Commissioner (Appeals), Customs & CGST, Lucknow.
3. Sh. N.K. Baksh, Advocate, D-35, 4<sup>th</sup> Floor, Abul Fazal Enclave, Jamia Nagar, Okhla, New Delhi- 110025.
- ✓ 4. PA to AS(RA)
5. Guard File.
6. Spare Copy



ATTESTED

Subdt (RA)