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F.Nos. 371/95/B/13-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.. 30/4/14

ORDER NO. 107/14-Cus DATED 30.04.2014 OF THE GOVERNMENT OF  
INDIA, PASSED BY SHRI D. P. SINGH, JOINT SECRETARY TO THE GOVERNMENT OF  
INDIA, UNDER SECTION 129DD OF THE CUSTOMS ACT, 1962.

SUBJECT : REVISION APPLICATION FILED, UNDER SECTION  
129 DD OF THE CUSTOMS ACT 1962 AGAINST THE  
ORDER-IN-APPEAL No.78/Mumbai-III/12 dated  
08.12.2013 passed by Commissioner of Customs  
(Appeals) Mumbai Zone-III

APPLICANT : Mr. Abdulla Mogar C/o Shri A.M. Sachwani & Others,  
Advocates

RESPONDENT : Commissioner of Customs(Airport), Mumbai

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## **ORDER**

This revision application is filed by Mr. Abdulla Mogar C/o Shri A.M. Sachwani & Others; Advocates against the order-in-appeal No.78/Mumbai-III/12 dated 08.12.2013 passed by Commissioner of Customs (Appeals) Mumbai Zone-III with respect to order-in-original No. 40/11-12 dated 12.10.2011 passed by Joint Commissioner of Customs, CSI Airport, Mumbai.

2. Brief facts of the case are that passenger, Shri Abdulla Mogar, the applicant, arrived from Dubai by Kingfisher Flight No. IT-0044 at CSI Airport, Mumbai on 08.09.2010 and after clearing through the green channel was proceeding towards the exit gate when he was intercepted. Examination of his baggage, led to the recovery of 305 packets of 25 gms each, totaling 7.625 kgs. GOLDPEECH saffron which were totally valued at Rs.7,62,500/- CIF. Most of the packets were found concealed in tins of milk powder and Tide detergent powder. The goods were seized as they were found to be non-bonafide baggage goods in trade quantity which was being attempted to be smuggled into India. IN his statements the applicant admitted that the parcel was given to him at Dubai by one Shri Ubaid which was to be collected by one person at Mumbai Airport. He also admitted knowledge of the goods and that he was to receive Rs.2000/- as remuneration. The goods were disposed off by the department realizing the amount of Rs.3,88,598/-.

2.1 The case was adjudicated by the Additional Commissioner of Customs, CSI Airport, Mumbai vide order-in-original No. ADC/RPK/ADJN/40/2011-12 dated 12.10.2011 who confiscated the goods under the provisions of section 111(d) (l) and (m) of the Customs Act 1962. Since the goods were not claimed by the applicant or anyone, order for redemption was not given. The personal penalty of Rs.2,00,000/- was imposed on the applicant under section 112(a) of the Customs Act, 1962.

3. Being aggrieved by the said order-in-original, applicant filed appeal before Commissioner (Appeals) who rejected the appeal for non-compliance of the provisions of section 129 E of Customs Act as applicant failed to make pre-deposit of Rs.1,00,000/- as ordered vide stay order No.524/Mum-III/12 dated 19.12.2012.

4. Being aggrieved by the impugned order-in-appeal, the applicant has filed this revision application under Section 129 DD of Customs Act, 1962 before Central Government on the following grounds :-

4.1 The goods imported by the applicant are neither restricted nor prohibited. The goods in question were disposed off by the Department at half the price of the CIF value of goods as taken by the Department, i.e. at Rs.3,88,598/-. Since the goods have been disposed off by the Department, the applicant is entitled for the sale proceeds of the same, which is still lying with the Department.

4.2 That since the sale proceeds of Rs.3,88,598/- are still lying with the Department, therefore asking for pre-deposit of further Rs.1,00,000/- is totally unjustified. The applicant craves to add or delete any other ground of appeal or produce any document/ judgment before or during the personal hearing.

4.3 That the applicant has suffered enough due to this cause and has been financially ruined and the applicant is facing financial hardship. The applicant craves leave to refer to and rely upon the relevant documents when produced. That the applicant is unable to make pre-deposit of penalty amount of Rs.2,00,000/- due to serious financial problems.

4.4 That insistence on pre-deposit of penalty would cause grave hardship to the applicant and may result in denial of justice and no prejudice will be caused to the department in this case if this application is allowed. That the applicant has got a good prima facie case on merits and he has fair chance of success in the appeal.

5. Personal hearing held in this case on 10.04.14 at Mumbai was attended by Shri A.M. Sachwani, Advocate on behalf of the applicant who reiterated the grounds of revision application.

6. Government has carefully gone through the relevant case records, oral & written submissions and perused the impugned order-in-original and order-in-appeal.

7. On perusal of records, Government observes that in this case the appeal was rejected for non-compliance of provisions of section 129 E as applicant failed to make pre-deposit of Rs.1,00,000/- as ordered in stay order No.524/M-III/12 dated 19.12.2012. Applicant has simply stated that department has disposed off the confiscated goods i.e. 7.625 kgs. Of Saffron for Rs.3,85,598/- and there is no justification for demanding pre-deposit of Rs.1,00,000/-. Government notes that in this case goods are absolutely confiscated and penalty of Rs.2,00,000/- is imposed. Keeping in view the circumstance, explained by applicant regarding financial hardship being faced by him, Government is inclined to reduce the pre-deposit amount to meet the ends of justice. As such, Government directs the applicant to make pre-deposit of Rs.25,000/- within one month of the receipt of this order. The appeal will get restored to Commissioner (Appeals) on getting the confirmation of deposit of said amount. Thereafter, Commissioner (Appeals) shall decide the appeal on merit in accordance with law.

8. The revision application is disposed off in terms of above.

9. So ordered.

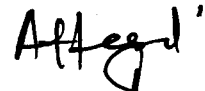


(D.P. Singh)

Joint Secretary (Revision Application)

Shri Abdulla Mogar,  
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P.O. Mogar, Puthur,  
P.O. Kasargod,  
Kerala

BPS



(सहायक सचिव (अनुसंधान, आदेशिका))  
सहायक सचिव/Assistant Commissioner  
C B E C - O S D (Revision Application)  
वित्त मंत्रालय (राजस्व विभाग)  
Ministry of Finance (Deptt. of Revenue)  
भारत सरकार/Govt. of India  
नई दिल्ली / New Delhi

Order No. 107/14-Cus Dated 30.04.2014

Copy to:

1. The Commissioner of Customs, Chhatrapati Shivaji International Airport, Avas Corporate Point, Makhwana Lane, Andheri Kurla Road, Andheri (East), Mumbai – 400 059.
2. Commissioner of Customs (Appeals), Mumbai-III, Avas Corporate Point, Makhwana Lane, Andheri Kurla Road, Andheri (East), Mumbai – 400 059.
3. Joint Commissioner of Customs, Chhatrapati Shivaji International Airport, Mumbai – 400 099
4. Shri A. M. Sachwani, Advocate, Nulwala Building, Ground Floor, 41, Mint Road, Opp. G.P.O., Fort, Mumbai – 400 001.
- ✓ 5. PA to JS(RA)
6. Guard File.
7. Spare Copy



(B.P. Sharma)  
OSD(Revision Application)