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SPEED POST



F.No. 375/39/B/17-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-110066

Date of Issue. 28/9/19

Order No. 12/19-Cus dated 23-9-2019 of the Government of India passed by Mrs. Mallika Arya, Principal Commissioner & 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. 301/Commr/2016-17 dated 04.10.2017, passed by the Commissioner of Customs (Preventive), Lucknow.

Applicant : Mr. Waqar, NewDelhi

Respondent : Commissioner of Customs (Preventive), Lucknow

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**ORDER**

A Revision Application No. 375/39/B/17-RA dated 06.12.2017 has been filed by Mr. Waqar (hereinafter referred to as the applicant) against the Order No. 301/Commr/2016-17 dated 04.10.2017, passed by the Commissioner of Customs (Preventive), Lucknow, where a gold bar of value of Rs. 48,37,644/- was absolutely confiscated and penalty of Rs. 5,00,000/- and Rs. 4,00,000/- was also imposed on the applicant under Section 112(b) and 114AA of the Customs Act, 1962, respectively.

2. The revision application is filed mainly on the grounds that gold is not prohibited goods and, therefore, the Commissioner has passed wrong order by absolutely confiscating the gold bar. It is also stated that the penalty imposed under Section 114AA is also not valid as they have not used false & incorrect material at the time of arrival in India.

3. A personal hearing was held in this case on 18.09.2019 and Sh. S.S. Arora, Advocate, appeared on behalf of the applicant who reiterated the grounds of revision already stated in the revision application. However, no one appeared for the respondent.

3. From the revision application it is evident that the applicant does not dispute the Commissioner's order regarding confiscation of the goods which were brought by him illegally from Abu Dhabi in violation of Customs Act and the Foreign Trade (Development and Regulation) Act 1992 and his request is limited to a point that the confiscated gold may be released on payment of redemption fine and reasonable penalty.

4. The Government has examined the matter. Whereas, as per first proviso to Section 129 (A) read with Section 129 (DD) of Customs Act, 1962, a revision

application can be filed before the Government against the Order-in-Appeal passed by the Commissioner of Customs (Appeals), if it relates to the issue of baggage, Drawback of duty and short landing of the goods. In the instant case, order under consideration is not an Order-in-Appeal passed under Section 129(A) but an Order-in-Original passed by the jurisdictional Commissioner of Customs as an adjudicating authority. As per Section 129A(1)(a) of Customs Act, 1962, an appeal can be filed before the Hon'ble CESTAT against the order passed by the Commissioner of Customs as an adjudicating authority. This fact has been mentioned in preamble attached to the Order-in-original which has been overlooked by the applicant. Therefore, the Government does not have jurisdiction to deal with the present revision Application.

5. The Revision Application is disposed of as not maintainable before the Government.

*Mallika Arya*  
(Mallika Arya)

Additional Secretary to the Government of India

Mr. Waqar,  
R/o 2724, 2<sup>nd</sup> floor Kucha Chellan,  
Dariyaganj, New Delhi-110002

Order No. 12/19-Cus dated 23-9-2019

Copy to:

1. Commissioner of Customs (Preventive), Lucknow, 5h floor, KendriyaBhawan, Sector-H, Aliganj, Lucknow.
2. Mr. S. S. Arora, B-1/71, Safdarjung Enclave, New Delhi 110029
3. PA to AS(RA)
4. ~~Guard File.~~
5. Spare Copy

ATTESTED

*N Dw*  
*23/9/19*

(Nirmla Devi)

Section Officer (REVISION APPLICATION)