

REGISTERED  
SPEED POST



F.No. 375/15/B/2016-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...14/8/18

Order No. 125/18-Cus dated 13-8-2018 of the Government of India passed by Shri R.P.Sharma, Principal Commissioner & Additional 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. CC(A)CUS/D-1/Air/2441/2015 dated 13.12.2015 passed by the Commissioner of Customs, NCH, New Delhi.

Applicant : Mr.Mehboob Hasan, Muzaffar Nagar

Respondent : Commissioner of Customs, NCH, New Delhi

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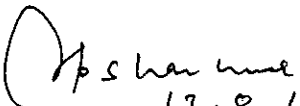
**ORDER**

A Revision Application No. 375/15/B/2016-RA dated 08.10.15 is filed by Shri Mehboob Hasan, R/o Near Khair Sweets, Main Mimlana Road, P.S. Kotwali, City Post Office, Muzaffarnagar, Uttar Pradesh (hereinafter referred to as the applicant) against the Order in Appeal No. CC(A)CUS/D-1/Air/2441/2015 dated 13.12.2015, passed by the Commissioner of Customs (Appeal), NCH, New Delhi, whereby the applicant has been allowed to redeem the confiscated goods on payment of redemption fine of Rs. 3,50,855/-, and personal penalty of Rs.1,60,000/- under Section 112 and 114AA of the Customs Act, 1962.

2. The revision application is filed mainly on the ground that the applicant had brought the gold for the self-use without any concealment and, therefore, heavy redemption fine and penalty imposed on him by the Commissioner (Appeals) is unwarranted.
3. A personal hearing was held on 25.06.2018 and the applicant along with Mohd. Arif Khan, Advocate, availed the hearing. They reiterated the above mentioned grounds of revision already pleaded in their application. However, no one appeared for the respondent and no request for any other date of hearing was also received from which it is implied that the respondent is not interested in availing personal hearing.
4. From the Revision Application it is evident that the applicant does not dispute the Commissioner (Appeal)'s order regarding confiscation of gold bars which were brought by him illegally in violation of Customs Act, 1962 and the Foreign Trade (Development and Regulation) Act, 1992 and his request is limited to a point that the redemption fine and penalty should be reduced.
5. As regards redemption fine and penalty imposed by the Commissioner (Appeals) in his order, it is observed that the applicant had gone to Saudi Arabia for

the first time and the revenue has not made out any case that the gold bars were brought by him for any commercial purpose or for somebody else. Moreover, in his additional submissions dated 26/06/2018 given during personal hearing it has been earnestly pleaded that this was his first and last mistake and will not repeat this kind of offence in future. Considering these facts, the government deems it proper to reduce the redemption fine from Rs. 3,50,855/- to Rs. 3,00,000/-. The applicant's contention regarding maintainability of penalty of Rs. 1,60,000/- under Section 112 and 114AA of the Customs Act is also found legally tenable as revenue has not been able to make any case against the applicant that he had made or signed any declaration, statement or document which was false or incorrect as envisaged under Section 114AA of the said Section. Instead the department's case is that he had not declared the imported goods to the Customs Authorities for which the penalty is imposable under Section 112 of the Customs Act, 1962. Thus penalty under Section 114AA is not imposable in this case. But the combined penalty of Rs. 1,60,000/- has been imposed on applicant by the Commissioner (Appeals) by considering the penalty under Section 114AA also and when the penalty under Section 114AA is not found imposable, the Government considers it appropriate to reduce the penalty from Rs. 1,60,000/- to Rs. 80,000/- under Section 112 of the Customs Act, 1962.

6. In view of the above discussion, the Order in Appeal is modified and the Revision Application is allowed to the above extent.

  
13.8.18  
(R.P.Sharma)

Additional Secretary to the Government of India

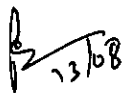
Shri Mahboob Hasan  
R/o Near Khair Sweets, Main Mimlana Road,  
P.S. Kotwali, City Post Office, Muzaffar Nagar  
Uttar Pradesh

Order No. 125/18-Cus dated 13-8-2018

Copy to:

1. Commissioner of Customs, IGI Airport, Terminal-3, New Delhi
2. Commissioner of Customs (Appeals), New Custom House, near IGI Airport, New Delhi
3. Additional Commissioner of Customs, IGI Airport, New Delhi
4. Shri Mohd Arif Khan, Advocate, J-37, J.M. Compound, Collectorate, Muzaffar Nagar (UP)
5. PA to AS(RA)
6. Guard File.

ATTESTED



(Ravi Prakash)

OSD (REVISION APPLICATION)

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SPEED POST



F. No. 375/15/B/2016-R.A.  
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. 31/8/18.

Corrigendum to **Order No. 125/2018 – Cus. dated 13.08.2018** of the Government of India, passed by Shri R. P. Sharma, Principal Commissioner & 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. CC(A)CUS/D-I/Air/2441/2015 dated 31.12.2015 passed by the Commissioner of Customs(Appeals) NCH, New Delhi

Applicant : Mr. Mehboob Hasan, Muzaffar Nagar.

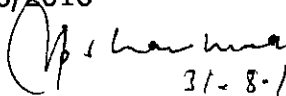
Respondent : Commissioner of Customs, NCH, New Delhi.

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**Corrigendum to Order No. 125/2018-Cus dated 13-08-2018**

The following corrections of typographical errors in Order No. 125/2018-Cus dated 13.08.2018, passed in reference to Revision Application No. 375/15/B/2016-R.A. dated 08.10.2015 filed by Mr. Mehboob Hasan, Muzaffar Nagar, are carried out and the same should be now read as part of the above order.

- (i) In the preamble and the first para of the Order, the date of Order-in-Appeal No. may be read as "31.12.2015" in place of "13.12.2015".
- (ii) In the fifth line of the fifth para of the Order, the date of additional submissions may be read as "25/06/2018" in place of "26/06/2018"

  
31-8-18  
(R. P. Sharma)

Additional Secretary to the Government of India

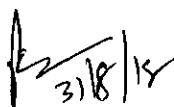
Mr. Mahboob Hasan,  
R/O Near Khair Sweets, Main Mimlana Road,  
P.S. Kotwali, City Post Office, Muzafar Nagar,  
Uttar Pardesh.

**Corrigendum to Order No. 125/2018-Cus. dated 13-08-2018**

Copy to:-

1. The Commissioner of Customs, IGI Airport, Terminal – 3, New Delhi.
2. The Commissioner of Customs(Appeals), New Custom House, Near IGI Airport, New Delhi.
3. The Additional Commissioner of Customs, IGI Airport, New Delhi.
4. Mr. Mohd. Arif Khan, Advocate, J – 37, J.M. Compound, Collectorate, Muzaffar Nagar(U.P.)
5. PA to AS(Revision Application)
6. Guard File
7. Spare Copy.

Attested

  
31/8/18

(Ravi Prakash)

O.S.D. (Revision Application Unit)