

REGISTERED  
SPEED POST



F. No. 375/11/B/16-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... 31/8/18

Order No. 130/2018-CUS dated 27-08-2018 OF THE GOVERNMENT OF INDIA, PASSED BY SHRI R.P. SHARMA, 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/1285/2015 dt. 07.10.2015, passed by the Commissioner of Customs (Appeals), New Delhi.

Applicant: Shri Mohd. Nisar s/o Mohd. Shabbir, R/o H. No. 17, DDA Flats, Turkman Gate, Chandani Mahal, Delhi-6

Respondent: The Commissioner of Customs, T-3, IGI Airport, New Delhi.

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**ORDER**

A Revision Application no. 375/11/B/2016-RA dt. 01.02.2016 has been filed by Mr. Mohd. Nisar, a resident of Turkman Gate, New Delhi (hereinafter referred to as the applicant) against the Order-in-Appeal no. CC(A)CUS/D-I/Air/1285/2015 dt. 07.10.2015, passed by the Commissioner of Customs (Appeals), New Delhi, whereby the applicant's appeal filed against the Order of the Additional Commissioner of Customs, IGI Airport, New Delhi was rejected.

2. The Revision application has been filed mainly on the ground that the gold is not a banned item and, therefore, absolute confiscation of gold and imposition of heavy penalty on him is not legally warranted in this case.

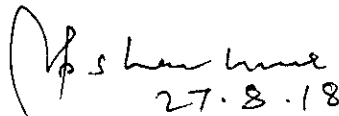
3. Personal hearing was fixed on 22.06.2018. But no one availed the hearing either for the applicant or the respondent and no request for any other date of hearing for any genuine reason was also received from which it is implied that they are not interested in availing personal hearing. Hence, the Revision application is taken up for decision on the basis of the available case records.

4. The Government has examined the matter and it is observed that the Revision application filed on 01.02.2016 was not accompanied by a fee of Rs. 1000/- even when a penalty of Rs. 6 lakh on the applicant under Section 112 of the Customs Act, 1962 is involved in the Revision application, apart from absolute confiscation of gold strips imported by the applicant. It is further noticed that non-payment of the fee is deliberate as the advocate of the applicant has clearly stated in his letter dt. 20.01.2016 that since the matter involved is about absolute confiscation of gold, no fee is being paid in this case. However, while deciding non-payment of fee at his level, the advocate has completely ignored the fact that the penalty of Rs. 6 lakh imposed on the

applicant is also involved in this case and in the Revision application itself a prayer is made, inter-alia, for reduction of penalty from Rs. 6 lakh to Rs. 50,000.

5. As per Section 129DD(3) of the Customs Act, 1962, a Revision application is required to be accompanied by a fee of Rs. 1000/- where the amount of duty and interest demanded, fine or penalty levied by an officer of Customs in the case to which the application relates is more than Rs. 1 lakh. This statutory payment of fee is a mandatory condition and no authority is empowered under the above section or any other provision to waive it in any circumstance. Thus, if the required fee is not paid prior to or along with the Revision application, such Revision application cannot be considered to have been filed properly. Accordingly, the Revision application not accompanied by required fee of Rs. 1000/- in this case is filed clearly in violation of Section 129DD(3) and consequently it cannot be considered by the Government.

6. In view of the above discussions, the Revision application is rejected as non-maintainable without going into the merit of the case.

  
27.8.18  
(R.P. Sharma)

Additional Secretary to the Government of India


Shri Mohd. Nisar s/o Mohd. Shabbir,  
R/o H. No. 17, DDA Flats, Turkman Gate,  
Chandani Mahal, Delhi-6

GOI ORDER No 130/18-C dt. 27-8-2018

Copy to-

- 1) The Commissioner of Customs, T-3, IGI Airport, New Delhi-110037.
- 2) The Commissioner of Customs (Appeals), New Custom House, Near IGI Airport, New Delhi-110037.
- 3) The Additional Commissioner of Customs, T-3, IGI Airport, New Delhi-110037.
- 4) B.R. Tripathi, advocate, A-23/90, Rajawadi CHS, Chittranjan Nagar, Ghatkopar (E), Mumbai-400077.
- 5) P.S. to A.S.
- 6) Guard file
- 7) Spare Copy

ATTESTED

  
27.8.2018

(Debjit Banerjee)

Sr. Technical Officer