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SPEED POST



GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

8th Floor, World Trade Centre, Centre – I, Cuffe Parade,
Mumbai-400 005

F.No. 371/49/B/2021-RA / 892 : Date of Issue 06-02-2024

ORDER NO. 136-2024/CUS (WZ)/ASRA/MUMBAI DATED 02-02-2024
OF THE GOVERNMENT OF INDIA PASSED BY SHRI SHRAWAN KUMAR,
PRINCIPAL COMMISSIONER & EX-OFFICIO ADDITIONAL SECRETARY TO
THE GOVERNMENT OF INDIA, UNDER SECTION 129DD OF THE CUSTOMS
ACT, 1962.

Applicant : Shri Kandammal Jahfer

Respondent : Pr. Commissioner of Customs, CSMI Airport,
Mumbai.

Subject : Revision Application filed, under Section 129DD of
the Customs Act, 1962 against the Order-in-Appeal
No. MUM-CUSTM-PAX-APP-551/2020-21 dated
26-11-2020 issued on 04-12-2020 through F.No.
S/49-1057/2019 passed by the Commissioner of
Customs (Appeals), Mumbai-III

ORDER

This revision application has been filed by the Shri Kandammal Jahfer (herein referred to as Applicant) against the order No. MUM-CUSTM-PAX-APP-551/2020-21 dated 26-11-2020 issued on 04-12-2020 through F.No. S/49-1057/2019 passed by the Commissioner of Customs (Appeals), Mumbai-III.

2. Brief facts of the case is that the applicant filed appeal against the Additional Commissioner's OIO No. ADC/AK/ADJN/108/2019-20 dated 06-08-2019 with the Commissioner Appeal. The applicant failed to submit copy of the Additional Commissioner's Order along with the Appeal as required under Rule 3(3) of Customs (Appeals), Rules, 1982. A Defective Appeal- Notice was issued to the Applicant on 29-10-2010. The applicant did not respond to the Notice issued to him. Commissioner Appeal vide his OIA No. MUM-CUSTM-PAX-APP-551/2020-21 dated 26-11-2020 rejected the appeal under Rule 3(3) of Customs (Appeals) Rules, 1982

3. Aggrieved by the aforesaid Commissioner Appeal's Order, the applicant filed the Revision Application on the following grounds:

3 01 That the Order-in original and the Order-in Appeal are wrong,

3 02 That they sent a letter dated 15-11-2019 and reminder dated 10-11-2020 to the Superintendent (Adjudication) requesting for a copy of the OIO and also a letter to the Appellate Authority requesting more time for submitting the OIO;

3 03 That the Appellate Authority ought to have considered the fact that the applicant did not claim the gold and that he had no objection in confiscating the gold and hence the Authority should have absolved him from penal liability;

3.04 That the penalty imposed is excessive and should have reduced the penalty.

5. Personal hearing was scheduled for 09-08-2023, 23-08-2023, 19-10-2023 and 26-10-2023. However, no one appeared for the hearing. Sufficient opportunities have been given to the applicant to present their case. The case is therefore being decided on the basis of available records.

6 Government has gone through the facts of the case. Government observes that applicant had not attached the copy of the Order-in Original along with the appeal filed with the Appellate Authority. The reason given for not attaching the same is that the Advocate had misplaced the same and that they have asked the department vide letter dated 15-11-2019 and vide reminder dated 10-11-2020 to give a copy of the same. Government finds that the copy of the Order in Original is not given along with the Revision Application filed in this office too. Government notices that the defective notice had been issued by the Appellate Authority on 29-10-2020 and this office had also issued on 19-03-2021. Till date the applicant has not submitted the copy of the Order in Original. In the absence of the Order in Original, Government finds that the Appellate Authority has correctly rejected the appeal.

7 Government observes that sufficient opportunities were given to the applicant to submit the same. Government finds that the applicant did not take any efforts to obtain the Order-in Original, the first letter was issued on 15-11-2019 and the next reminder has been issued nearly a year after i.e. on 10-11-2020. Even after the appeal was rejected by the Appellate authority, the applicant did not find it necessary to obtain the same before filing the revision application. In view of the above, the revision application filed by the applicant is not maintainable and in the circumstances, the Government is

constrained to reject the revision application on grounds of non-maintainability.

9 In view of the above, the revision application is dismissed as non-maintainable.

Shrawan
2/2/24
(SHRAWAN KUMAR)

Principal Commissioner & ex-officio
Additional Secretary to Government of India

ORDER No. 136/2024-CUS (WZ) /ASRA/MUMBAI DATED 2.02.2024.

To,

1. Shri. Kandammal Jahfer, Kandammal House, Vavad PO, Kozhikode, Kerala 673572.
2. Commissioner of Customs (Airport), CSMI Airport, Sahar, Andheri (East), Mumbai-400099.
3. The Commissioner of Customs (Appeals), Mumbai-III, 5th Floor, Avas Corporate Point, Makwana Lane, Behind S. M. Centre, Andheri Kurla Road, Andheri (East), Mumbai 400 059.

Copy to:

- 1 Advocate K. M Suresh Chandran, Advocate 9/426, Calicut-673001
- 2 Sr P.S to AS (RA), Mumbai
- 3 File copy
- 4 Noticeboard.