

REGISTERED  
SPEED POST



F.No. 375/42/B/15-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... 05/01/18

Order No. 14/18-Cus dated 05-01-2018 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/Air-D-I/962/2015 dated 28.7.2015 passed by the Commissioner of Customs (Appeals), New Custom House, New Delhi

Applicant : Mr. Parvez Ahmed Zargar, Delhi

Respondent : Commissioner of Customs, New Delhi

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**ORDER**

A Revision Application No. 375/42/B/15-RA dated 16.09.15 is filed by Mr. Parvez Ahmed Zargar, a resident of Delhi (hereinafter referred to as the applicant) against the OIA No.CC(A)Cus/Air-D-I/962/2015 dated 28.7.2015, passed by the Commissioner of Customs (Appeals), Airport, New Delhi, who has rejected the applicant's appeal before him and upheld the OIO of the Additional Commissioner of Customs, who absolutely confiscated 16 gold rings weighing 600 gms valued at Rs.1540722/- and imposed penalty of Rs.2.00 lakhs on the applicant.

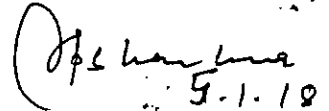
2. The revision application is filed mainly on the ground that he was an eligible passenger as per condition No.35 of Notification No.12/2012 dated 17.3.12 and, therefore, the Commissioner (Appeals) has gravely erred in not allowing him to clear the confiscated gold rings in accordance with Section 125 of the Customs Act and catena of decisions cited in the revision application.

3. A personal hearing was held on 18.12.17 in this case and it was attended by Shri A.S.Hasija, Consultant, and Shri Sanjay Kumar, Assistant Custom Officer, on behalf of the applicant and the respondent respectively. While Shri Hasija reiterated the above grounds of revision and also submitted copies of two decisions in the case of Yakub Ibrahim Yusuf Vs. Commissioner of Customs, Mumbai 2011 (363) ELT 685 (Tri – Mumbai) and Commissioner of Customs (Preventive), West Bengal Vs. India Sales International 2009 (241) ELT 182 (Cal.). Shri Sanjay Kumar opposed the revision application for the reasons discussed in Commissioner (Appeals)'s order.

4. On examination of the revision application and the Commissioner (Appeals)'s order, it is evident that the Commissioner (Appeals) has also accepted that the applicant was an eligible passenger when he arrived in India along with 16 gold rings and the gold is not prohibited goods. As regards confiscation of the gold rings, the applicant has also not disputed that the same were not declared by him and were concealed by him in his shoes. Therefore, the confiscation of gold rings is absolutely legally maintainable and the same is not questioned by the applicant also

in his application to the Government. However, the Government agrees with the applicant that being not prohibited goods, the Commissioner (Appeals) was required to provide an option to the applicant for redemption of confiscated gold rings on ~~payment of duty and redemption fine under Section 125 of the Customs Act.~~ In fact, it has been noted that the Commissioner (Appeals) has repeatedly allowed redemption of gold and gold articles in a number of decisions against which the revision applications have been considered by the Government. For example, the Commissioner (Appeals) in his Order-in-Appeal No.CC(A)/Cus/385/2015 dated 3.6.2015 in the case of Mr. Abdul Wahab has clearly held that gold is not prohibited goods and allowed redemption of 1.900 kg. gold on payment of fine & penalty. Therefore, the Commissioner (Appeal) was required to give an option to the applicant in this case also for redemption of confiscated goods irrespective of the concealment of the gold rings by the applicant. Since it is not provided earlier, the Government give an option to the applicant to redeem the confiscated gold rings within 30 days from the receipt of this Order on payment of Custom Duty as applicable, fine of Rs.7.00 lakhs and penalty of Rs.2.00 lakhs imposed by the Additional Commissioner of Customs on the applicant.

5. Accordingly, the revision application is allowed and the Commissioner (Appeals)'s Order is modified to the above extent.

  
5-1-18  
(R.P.Sharma)

Additional Secretary to the Government of India

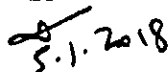
Mr. Parvez Ahmed Zargar,  
R/o A-24, 1<sup>st</sup> Floor, Lajpat Nagar-II  
New Delhi

Order No. 19/18-Cus dated 05-01-2018

Copy to:

1. Commissioner of Customs(P), IGI Airport Terminal-3, New Delhi-110037
2. Commissioner of Customs (Appeals), New Custom House, Near IGI Airport, New Delhi
3. Additional Commissioner of Customs, IGI Airport Terminal-3, New Delhi-110037
4. Shri A.S.Hasija, Consultant, H-25/4, DLF City, Phase-1, Gurgaon-122002, Haryana
5. PA to AS(RA)
6. Guard File.
7. ✓ Spare Copy

ATTESTED

  
5.1.2018

(Debjit Banerjee)  
STO (Revision Application)