

REGISTERED

SPEED POST



F.No. 375 /53/ B/ 2016-RA
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

14, HUDCO VISHALA BLDG., B WING
6th FLOOR, BHIKAJI CAMA PLACE,
NEW DELHI-110 066

Date of Issue...7/9/18.

Order No. 145/18-Cus dated 4-9-2018 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 Custom 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-I/ Air/ 499/ 2016 dated 20.06.2016, passed by the Commissioner of Customs (Appeals), NCH, Delhi.

Applicant : Ms Roja Prasada Rao Siramdasu

Respondent : Commissioner of Customs (Appeals), NCH, Delhi.

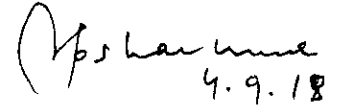
ORDER

A Revision Application no. 375/53/B/2016-RA dated 04.08.2016 is filed by Ms Roja Prasada Rao Siramdasu, a resident of Vijayawada (hereinafter referred to as the applicant) against the Order-in-Appeal no. CC (A) Cus/ D-I/ Air/ 499/ 2016 dated 20.06.2016, passed by the Commissioner of Customs (Appeals), NCH, Delhi, whereby the applicant's appeal filed against the Order-in-Original has been rejected for not pre-depositing the amount @7.5% of the penalty of Rs.2,30,000/- as per section 129E of the Customs Act, 1962.

2. The Revision Application is filed mainly on the grounds that the gold jewellery is not prohibited, no penalty is imposable under section 114AA in this case and penalty on the applicant is excessive.
3. Personal Hearing was held in this case on 23.07.2018 and it was availed by Sh. S. S. Arora, advocate, for the applicant who reiterated the above referred grounds of revision during the hearing.
4. The Government has examined the matter and it is found from the Order-in-Appeal that the applicant's appeal before the first appellate authority is rejected solely on the ground that the applicant did not pre-deposit the amount @7.5% of the penalty amount as stipulated in section 129E as a pre-condition for the Commissioner (Appeals) to entertain any appeal. Non-payment of the said amount is not disputed by the applicant also in the Revision Application or during the personal hearing and the Order-in-Appeal has been challenged only on the grounds such as gold is not prohibited goods and penalty is excessive etc without uttering a single word as to how their appeal could be entertained by the Commissioner (Appeals)

when section 129E itself categorically provides that Commissioner (Appeals) shall not entertain any appeal unless the appellant had deposited the amount at the rate of 7.5% of the duty or the penalty. Since the condition of pre-depositing the amount was not complied with, the rejection of her appeal by the Commissioner (Appeals) on this ground cannot be faulted by the Government.

5. Accordingly, no interference in the Order-in-Appeal is warranted and the Revision Application is rejected.


4.9.18
(R.P.Sharma)


Additional Secretary to the Government of India

Ms Roja Prasada Rao Siramdasu

R/o 23-31-15, Kammu Vari Street,

S. N. Puram, Vijayawada (Andhra Pradesh)

ATTESTED


4/9/18
(Ravi Prakash)

OSD (REVISION APPLICATION)

Order No. 145/18-Cus dated 4-9-2018

Copy to:

1. Commissioner of Customs, NCH, Delhi.
2. Commissioner of Customs (Appeals), NCH, Delhi.
3. Additional Commissioner of Customs, IGI Airport, Terminal-3, New Delhi.
4. PS to AS(RA)
5. Guard File.