

REGISTERED
SPEED POST



F.No. 375/86/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. 149/18-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 129DD of the Customs Act, 1962 against the Order-in-Appeal No. CC(A)Cus/D-1/Exp/577/2016 dated 15.6.2016, passed by the Commissioner of Custom (Appeals), New Delhi

Applicant : Mr. Mohd. Nadeem, Muzaffar Nagar, U.P.

Respondent : Commissioner of Customs, IGI, Airport, New Delhi

ORDER

A Revision Application No.375/86/B/2016-R.A. dated 18.11.2016 is filed by Mr. Mohd. Nadeem, a resident of Muzaffar Nagar, U.P. (hereinafter referred to as the applicant) against the OIA No.CC(A)Cus/D-1/Exp/577/2016 dated 15.6.2016, passed by the Commissioner of Customs (Appeals), New Delhi, whereby the applicant's appeal filed before him was rejected and the Additional Commissioner's OIO No.53/2015 dated Nil was upheld.


2. The revision application has been filed by the applicant with a request to set aside the Order of Commissioner (Appeals) as the gold is freely importable goods and the Principle of Natural Justice was not followed in their case.

3. A personal hearing was fixed on 23.7.2018. But it was not availed either by the applicant or the respondent and no request for any other date of the hearing is also received from which it is implied that the applicant as well as the respondent are not interested in availing the personal hearing in this case.

4. The Government has examined the matter and it is observed at the outset that the revision application is filed after the delay of 38 days and no reason for the said delay has been explained in the revision application or otherwise. In fact no application of condonation of delay is presented before the Government even after it was pointed out to the applicant vide office letter No.375/86/B/2016-RA dated 5.7.18. Whereas under Section 129DD(2) of the Customs Act, a delay of three months can be condoned by the Government only on being satisfied that the applicant was prevented by a sufficient cause in filing the revision application within normal period of three months. Since no such request is made by the applicant in this case, the delay involved in the present revision application is not condonable and consequently the application filed by the applicant is time barred. In addition, the revision application filed on 18.11.16 is not accompanied by fee a of Rs.1000/- which was required to be paid in this case as per Section 129DD(3) of the Customs Act, 1962. As per this Section a fee of Rs.1000/- is mandatorily to be accompanied along with the revision application 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.1.00 lakh. Since in this case the amount of penalty is undisputedly more than Rs.1.00 lakh, the penalty being Rs.540000/-, a fee of Rs.1000/- was required to be paid before revision application was filed. But no fee was paid and consequently the revision application filed by the applicant cannot be considered to have been filed properly as payment of the fee is a statutorily mandatory condition under the aforesaid provision and no authority has been empowered to condone non compliance of this condition in any circumstance. Thus the revision application filed in this case is not maintainable for this reason also.

5. Accordingly, the revision application is rejected as non maintainable for the above discussed reasons.


4.9.18
(R.P.Sharma)

Additional Secretary to the Government of India

Mohd. Nadeem
R/o H.No.479, Laddhawala North,
P.S. Kotwali, P.O. City
Muzaffar Nagar, U.P.

Order No. 149/18-Cus dated 4-9-2018

Copy to:

Copy to:

1. Commissioner of Customs, 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, ACC (Imports), New Custom House, Near IGI Airport, New Delhi
4. PA to AS(RA)
5. Guard File
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ATTESTED


(Ashish Tiwari)
Assistant Commissioner