

REGISTERED
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. 371/186/B/WZ/2022-RA/923

Date of Issue : 12.02.24

ORDER NO. 149/2024-Cus (WZ) / ASRA / MUMBAI/ DATED 8.02.2024
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. Karan Yogesh Shah

Respondent : Pr. Commissioner of Customs, Pune.

Subject : Revision Applications filed under Section 129DD of the
Customs Act, 1962 against Order-in-Appeal No.
PUN-CT-APPII-(VNT)-000-094-2021-22 dated 30.12.2021
through F.No. GAPPL/COM/CEXP/287/2021 passed by
the Commissioner (Appeals-II), Central Tax, Pune.

ORDER

This Revision Application has been filed by Shri Karan Yogesh Shah, (hereinafter referred to as "the Applicant") against Order-in-Appeal No. PUN-CT-APPII-(VNT)-000-094-2021-22 dated 30.12.2021 through F.No. GAPPL/COM/CEXP/287/2021 passed by the Commissioner (Appeals-II), Central Tax, Pune.

2(a). Brief facts of the case are that on 19.06.2019, the Officers of Pune Customs (Prev) intercepted 04 boxes in the Parcel Office located at Pune Railway Station which had arrived onboard Train No. 12130-Azad Hind. Examination of the 04 boxes led to the recovery of imported Cigarettes bearing brand name WIN. The cigarettes packets did not bear any pictorial warning as prescribed under the Cigarettes and Other Tobacco Products Act, 2018 (COTPA). Thus, in all the 04 boxes contained 1,60,000 sticks imported cigarettes valued at Rs. 32,00,000/- which were seized.

2(b). Based on discreet enquiries it was identified that the applicant was the owner of the imported cigarettes. Accordingly, Statement of the applicant was recorded under Section 108 of the Customs Act, 1962 wherein he admitted that he was engaged in the business of purchasing and selling imported cigarettes in bulk; that the imported cigarettes seized on 19.06.2019 at Pune Railway Station belonged to him;

3. After due process of the law, the original adjudicating authority (OAA) viz, Joint Commissioner of Customs (Prev), Pune vide his Order-In-Original No. PUN-CUSTOMS-000-JC-08/2020-21 dated 30.09.2020 (DOI : 05.10.2020) issued through F.No. VIII/Cus/Adj/Show Cause Notice-Karan/Cig/03/2020-21 ordered for the absolute confiscation of the 1,60,000 cigarette sticks seized on 19.06.2019, valued at Rs. 32,00,000/- under Section 111(d), 111(l) and 111(m)

of the Customs Act, 1962. Also, penalties of Rs. 1,00,000/- each was imposed on the applicant under Section under (i). Section 112(a) & 112(b) and (ii). Section 114AA of the Customs Act, 1962, respectively.

4. Aggrieved by this order, the applicant filed an appeal with the Appellate Authority (AA) viz, Commissioner (Appeals-II), Central Tax, Pune who vide the Order-in-Appeal No. PUN-CT-APPII-(VNT)-000-094-2021-22 dated 30.12.2021 through F.No. GAPPL/COM/CEXP/287/2021, set aside the penalty of Rs. 1,00,000/- imposed on the applicant by the OAA under Section 114AA of the Customs Act, 1962 and upheld the penalty of Rs. 1,00,000/- imposed on the applicant by OAA under Section 112(a) and (b) of the Customs Act, 1962.

5. Aggrieved with the above order, the Applicant has filed this revision application for quashing and setting aside the Order-In-Appeal dated 30.12.2021 passed by Commissioner (Appeals-II), Central Tax, Pune and to set aside the penalty of Rs. 1,00,000/- imposed under Section 112(a) and (b) of the Customs Act, 1962. They have furnished an exhaustive submission and have relied on various case laws.

6. Personal hearing in the matter through the virtual video conferencing mode was scheduled for 06.09.2023, 13.09.2023. Shri. Vinayak Kalgekar, Advocate for the applicant appeared online on 13.09.2023 and submitted that applicant is not the owner of the goods and applicant is not concerned with cigarettes seized. He requested to drop the penalty.

7. The Government has examined the matter and at the outset, it is observed that the cigarettes were seized at the parcel office located at Pune Railway Station. Whereas, as per first proviso to Section 129A read with Section 129DD of Customs Act, 1962, a revision application can be filed before the Government

against the order-in-appeal, if it relates to the issue of baggage, drawback of duty and short landing of the goods. But no such issue is involved in the above mentioned order-in-appeal and the dispute is regarding imported cigarettes seized at the Railway Station. Therefore, the Government does not have jurisdiction to deal with this Revision Application.

8. In view of above discussions, Government is of the opinion that the issue involved in this case does not fall within the jurisdiction of this authority and hence, the issue is required to be agitated before the proper legal forum, i.e. Tribunal, if the Applicant deems fit to do so. The revision application is thus, not maintainable before this authority for want of jurisdiction in terms of Section 129A read with Section 129DD of the Customs Act, 1962.

9. The revision application is thus rejected as being non-maintainable for lack of jurisdiction.


(SHRAWAN KUMAR)

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

ORDER No. 149/2024-CUS (WZ) /ASRA/

DATED 02.02.2024

To,

- (i). Shri. Karan Yogesh Shah, B-101, Shantivan Society, Kondhwa Budruk, Pune – 411 048.

Copy to:

1. The Pr. Commissioner of Customs, Pune, GST Bhavan, 41/A, Sasson Road, Pune – 411 001.
2. Shri. Vinayak Kalgekar, Advocate, 177A, Jui Apartment, Flat No. 1, Next to Shelar TVS Showroom, Parvati, Pune – 411 009.
3. Sr. P.S. to AS (RA), Mumbai.
4. File Copy,
5. Notice Board.