

REGISTERED
SPEED POST



F.No. 375/34/B/18-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 22/1/21

Order No. 15/21-Cus dated 21-01-2021 of the Government of India passed by Shri Sandeep Prakash, 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-1/Air/17/2018 dated 18.01.2018, passed by the Commissioner of Customs (Appeals), New Custom House, New Delhi

Applicant : Mr. Jamsheed Ahmed

Respondent : Commissioner of Customs (Airport & General), New Delhi

ORDER

A Revision Application No.375/34/B/18-RA dated 13.04.2018 has been filed by Shri Jamsheed Ahmed, New Delhi (hereinafter referred to as the applicant) against the Order No.CC(A)Cus/D-1/Air/17/2018 dated 18.01.2018, passed by Commissioner of Customs (Appeals), New Delhi. Commissioner (Appeals), has upheld the order of the Assistant Commissioner of Customs, IGI Airport, Terminal-3, New Delhi bearing no. 216/2016-17 dated 04.01.2017 wherein one gold bar, which was recovered from the applicant, weighing 116.64 grams valued at Rs. 2,88,014/-, has been confiscated. The adjudicating authority has also imposed a penalty of Rs. 50,000/- under Sections 112 of the Customs Act, 1962 on the applicant. Commissioner (Appeals) vide the above mentioned Order-in-Appeal dated 18.01.2018, allowed the redemption of gold bar on payment of redemption fine of Rs. 70,000/- and baggage rate of duty. The penalty has also been reduced from Rs. 50,000/- to Rs. Rs. 30,000/-.

2. The brief facts of the case are that the applicant arrived on 17.02.2012 at IGI Airport, New Delhi from Riyadh and was intercepted near the exit gate of the arrival hall after he had crossed the Customs Green Channel. After search of his person and of his baggage one gold bar was recovered from his possession. The gold bar was weighing 116.64 grams, and was appraised at Rs.2,88,014/- by the Jewellery Appraiser at IGI airport. The applicant in his statement, recorded under Section 108 of the Customs Act, 1962, admitted the recovery of gold bar and stated that he was a carrier who had carried the contraband for monetary gains. The revision application is filed mainly on the ground that the applicant is eligible for concessional rate of duty, instead

of baggage rate of duty, as prescribed under Notification No. 12/2012-Customs dated 17.03.2012 being a eligible passenger

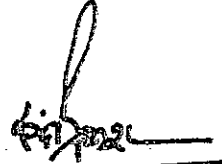
3. A personal hearing in virtual mode was held on 20.01.2021. Sh. S.S. Arora, Advocate, appeared on behalf of the applicant and reiterated the grounds of revision already stated in the revision application. Sh. R.P. Bairwah, Superintendent, appeared on behalf of the respondent. He reiterated the findings of the authorities below and requested that revision application be rejected since gold was undeclared and concessional rate of duty was not claimed. Written submissions dated 20.01.2021 have also been filed on behalf of the applicant.

4. From the revision application, it is evident that the applicant does not dispute the Commissioner (Appeals)'s order regarding release of the goods on payment of redemption fine and penalty which were brought by him illegally from Riyadh in violation of Customs Act and the Foreign Trade (Development and Regulation) Act 1992. His request is limited to a point, that he is eligible to bring gold at concessional rate of duty in terms of Notification no. 12/ 2012- customs dated 17.03.2012, instead of baggage rate of duty.

5. The Government has carefully examined the case records and the submissions made. A plain reading of Notification no. 12/ 2012- customs dated 17.03.2012 makes it clear that a passenger returning to India after six months can bring one kg of gold on payment of concessional rate of customs duty subject to condition 35 of the said notification, which inter-alia, requires the eligible passenger to file a declaration before the proper officer of customs at the time of arrival in India. In the instant case, such a

declaration was not made in respect of the gold bar seized, with a claim for exemption, and instead a conscious attempt has been made to smuggle by not declaring the same. Thus, the applicant does not fulfil the condition no. 35 of Notification no. 12/2012- Customs dated 17.03.2012. Therefore, in the facts and circumstances of the case, Government holds that the applicant is not eligible for the concessional rate of duty in terms of Notification no. 12/2012- customs dated 17.03.2012 and the impugned OIA does not warrant any interference, on this count.

5. The revision application is rejected.



(Sandeep Prakash)

Additional Secretary to the Government of India

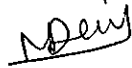
Mr. Jamsheed Ahmad
Village P.O. Seerbasuchand
PS Afzalgarh, Bijor
Uttar Pradesh.

Order No. 15/21-Cus dated 21-01-2021

Copy to:

1. Commissioner of Customs (Airport & General), IGI Airport Terminal-3, New Delhi-110037
2. Commissioner of Customs (Appeals), New Custom House, Near IGI Airport, New Delhi
3. Assistant Commissioner of Customs, IGI Airport, New Custom House, New Delhi
4. Shri S.S. Arora, Advocate, B-1/71, Safdarjung Enclave, New Delhi -110029
5. PA to AS(RA)
6. Guard File.
7. Spare Copy

ATTESTED



(Nirmala Devi)

Section Officer (Revision Application)