

REGISTERED

SPEED POST



F.No.380/08/B/2018-R.A
F.No. 380/10/B/2018-R.A
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. ^{150451/2018-LWS} Cus dated 4-9-2018 OF THE GOVERNMENT OF INDIA, PASSED BY
SHRI R. P. SHARMA, ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA,
UNDER SECTION 129DD OF THE CUSTOMS ACT, 1962.

SUBJECT : Revision Application filed under section 129DD of the
Customs Act, 1962 against the Order-in-Appeal No. CC
(A) CUS/D-I/589/2017 dated 28.12.2017 and Order-
in-Appeal No. CC (A) CUS/D-I/133/2018 dated
10.04.2018, passed by the Commissioner of Customs
(Appeals), NCH, Near IGI Airport, New Delhi.

APPLICANT : Commissioner of Customs, T-3, IGI Airport, New Delhi

RESPONDENT : Mr. Hashmat Ali, Moradabad.

ORDER

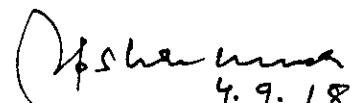
Two Revision Applications Nos. 380/08/B/2018-R.A. dated 09.04.2018 and No. 380/10/B/2018 dated 09.07.2018 have been filed by the Commissioner of Customs, T-3, IGI Airport, New Delhi (hereinafter referred to as the applicant) against the Commissioner (Appeals)'s Order No. CC (A) CUS/D-I/589/2017 dated 28.12.2017 and CC (A) CUS/D-I/133/2018 dated 10.04.2018 whereby the order of the Joint Commissioner of Customs, IGI Airport, New Delhi, has been modified to the extent that both redemption fine and penalty have been reduced from 8 lakhs to Rs. 6 lakhs and the departmental appeal praying for absolute confiscation of the confiscated foreign currencies has been rejected.

2. The revision applications have been filed mainly on the ground that the Commissioner (Appeals) has erred by rejecting the Departmental appeal praying for absolute confiscation of the said foreign currency at first place and secondly the redemption fine and personal penalty imposed by the original adjudicating authority is wrongly reduced.

3. A personal hearing was held on 29.08.2018 which was attended by Shri S. S. Arora, Advocate, on behalf of the respondent who mainly pleaded that the order of the Commissioner (Appeals) is just and proper and does not need any revision. He also provided written submissions dated 20.08.2018 during the hearing to emphasise that the revision applications filed by the Department are rejectable. However, no one appeared for the applicant and no request was received for a personal hearing on any other date from which it is implied that they are not interested in availing any hearing in the matter.

4. The government has examined the matter and it is found that it is not in dispute that the respondent had attempted to illegally export the foreign currencies after having procured the same from illicit resources by violating several provisions of various laws relating to Foreign Exchange regulations and accordingly the Commissioner (Appeals) correctly upheld the order-in-original relating to confiscation of foreign currencies by holding in his order that foreign currency is prohibited goods. However, both original and Appellate Authorities have allowed the redemption of the confiscated foreign currencies on payment of fine by exercising their discretionary power conferred under Section 125 of the Customs Act, 1962. The Government also finds that the above Section does not place a complete ban on allowing the redemption of even prohibited goods and redemption of such foreign currencies has been allowed in several case in past also by the Government as well as various courts for which some of the examples are available in the case laws relied upon by the Commissioner (Appeals) in his order. Therefore, the Government does not accept the revenue's objection with regard to order-in-appeal allowing redemption of foreign currencies on payment of fine. The Government also does not find any prima facie error in Commissioner (Appeals)'s order in reducing the redemption fine and penalty and the Department has not made out any case that redemption fine and personal penalty of Rs. 6 lakhs each is not befitting in this case. Hence, no interference from the government is warranted in the Orders-in-Appeal.

5. In view of the above discussions, both the revision applications filed by the Revenue are rejected.


(R. P. SHARMA) 4.9.18

ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA

The Commissioner of Customs,
Terminal-3, IGI Airport,
New Delhi 110 037

ORDER NO.150-151/18-Cus dated 4.9.2018

Copy to:-

1. Hashmat Ali, S/o Rustam Ali, R/o Ramnagar, PO Asmoli, PS Asmoli, Moradabad, UP.
2. The Commissioner of Customs (Appeals), New Custom House, New Delhi-37
3. P.S. to A.S.
4. Guard File
5. Spare copy

ATTESTED

N Devi
4/9/18

(NIRMALA DEVI)
Section officer