

REGISTERED
SPEED POST



F.No. 375/61/B/16-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...14/9/18

Order No. 161/18-Cus dated 11-9-2018 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-1/Air/281-283/2016 dated 17.5.2016, passed by the Commissioner of Customs (Appeals), Delhi.

Applicant : Mr. Pramod Saini

Respondent : Commissioner of Customs, Delhi

ORDER

A Revision Application No. 375/61/B/16-RA dated 31.08.2016 is filed by Mr. Pramod Saini (hereinafter referred to as the applicant) against the Order No. CC(A)Cus/D-1/Air/281-283/2016 dated 17.5.2016, issued by the Commissioner of Customs (Appeals), Delhi, whereby the Order-in-Original No. 242/2014 dated 29.12.2014 of the Additional Commissioner of Customs, Delhi, imposing penalty of Rs. 5,00,000/- is upheld.

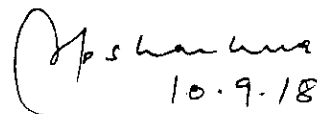
2. The revision application is filed mainly on the grounds that the Commissioner(Appeals) has passed wrong order by not releasing the gold bars and TV to him on payment of redemption fine and the penalty imposed by the Commissioner (Appeals) is also excessive.

3. A personal hearing in this case was fixed for 11.07.2018 and 13.08.2018. However, no one appeared for the applicant as well as for respondent on both the above dates and no request for any other date of hearing is also made by them from which it is implied that the applicant and the respondent are not interested in availing personal hearing in this case. Hence, the case is taken up for decision on the basis of revision application and other case records.

4. Government has examined the matter and it is observed at the outset that the revision application filed on 31.08.2016 was not accompanied by a fee of Rs. 1000/- even when penalty of Rs. 5,00,000/- is involved in the present revision application. Whereas as per sub-section 3 of Section 129DD of Customs Act 1962, a revision application is to be accompanied by a fee of Rs.1000/- when the amount of duty etc. levied by any Customs officer is more than Rs.1.00 lakh. This requirement of payment of fee before or at the time of filing the application is a statutorily mandatory and no relaxation in this regard is provided under the aforesaid provision or any other Section. Thus, if any application is not accompanied by the specified fee, such application cannot be accepted as properly filed and cannot be considered by the Government by virtue of the above mentioned provision. Since the fee in this case was not paid before or at the time of

filing of the application, the revision application filed by the applicant could not be considered as having been filed on 31.08.2016. The applicant certainly paid the amount of Rs. 1,000/- subsequently on 06.09.2016 and thus the proper revision application in this case along with the fee can be considered to have been filed on 06.09.2016 only against the Order-in-Appeal received on 01.06.2016 by the applicant. But by 06.09.2016 the said revision application was time barred as a revision application can be filed only within 3 months from the date of communication of the Commissioner (Appeal)'s order as per Sub Section 2 of Section 129DD of Customs Act, 1962 which was received in this case on 01.06.2016 as per the revision application itself. Therefore, the revision application is delayed by more than 6 days and hence the revision application is time barred.

5. Accordingly, the revision application is rejected as not maintainable before the Government.


10.9.18

(R.P.Sharma)

Additional Secretary to the Government of India

Mr. Pramod Saini
126/1, Jhansa Road,
Kurukshetra,
Haryana.

Order No. 161/18-Cus dated 11-9-2018
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-110037.
3. Additional Commissioner of Customs, IGI Airport, Terminal -3 , New Delhi-110037
4. S. Jaina and associates, 84, Shyam Lal Marg, Darya Ganj, Delhi-110002
5. Guard File.
6. Spare Copy

ATTESTED


10/9/18

(Nirmla Devi)

Section Officer (REVISION APPLICATION)