

F.No. 372/07/B/2016-R.A.

F.No. 372/07/B/2016-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...14/9/18

Order No. 166/18-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 Customs Act, 1962.

Subject : Revision Application filed under section 129 DD of the Customs Act 1962 against the Order-in-Appeal No. 31-32/Siliguri-Cus/2016 dated 19/7/16, passed by the Commissioner of Central Excise (Appeal-I), Kolkata

Applicant : Sh. Adharam Gupta, Howrah

Respondent : Additional Commissioner of Customs, Central Excise and Service Tax, Siliguri

ORDER

A Revision Application No. 372/07/B/2016-R.A dated 18/10/16 is filed by Sh. Adharam Gupta of Howrah (hereinafter referred to as the applicant) against the Order-in-Appeal No. 31-32/Siliguri-Cus/2016 dated 19/7/16, passed by the Commissioner of Central Excise (Appeal-I), Kolkata, whereby the order-in-original passed by the Additional Commissioner of Customs, Central Excise and Service Tax, absolutely confiscating the goods brought by the applicant and imposing a penalty of Rs. 2 lakhs, has been upheld.

2. The Revision Application has been filed mainly on the grounds that the seized goods imported by the applicant were not prohibited goods and, therefore, the Commissioner (Appeals) has erred in not allowing the applicant to redeem the same on payment of fine.

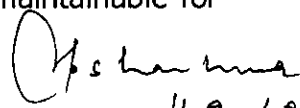
3. A personal hearing was first fixed on 16.07.2018 but it was not availed by the applicant and rather vide his letter dated 06.07.2018 he requested for 3 weeks times for the reason that his advocate was pre-occupied in a case in the High Court at Kolkata on that day. Accordingly, the next hearing was scheduled on 13.08.2018. But this hearing also remained unattended and no reason for non-availment of hearing was also informed. Instead one letter dated 07/08/2018 was received from Sh. A. K. Singh, Advocate on 13/08/2018 informing that he will not be in a position to avail personal hearing in this case on 13/08/2018 because of his business in connection with one another case in Gwallior. However, no authorization is given by the applicant along with the revision application or otherwise allowing the above named advocate to appear in this matter. No such authorization is sent by the said advocate along with his above referred letter dated 07/08/2018 also. Thus the information given by the advocate that he shall file written submissions in this case, if required, cannot be given any credence because he is not an authorized representative in this matter at all. Further, no request for any another date of hearing is also received from

the applicant as well as respondent from which it is implied that they are not interested in availing personal hearing in this matter. Accordingly the case is taken up for disposal on the basis of records available.

4. The Government has examined the matter and it is observed at the outset that the revision application presented before the Government on 18.10.16 was not accompanied by a fee of Rs.1000/- even when penalty of Rs. 2 lakhs on the applicant under Section 112 of the Customs Act is involved in the revision application, apart from absolute confiscation of goods worth Rs.13,17,757/-. But no fee was paid along with the application. Consequently the revision application filed by the applicant in breach of the above statutory condition cannot be considered to have been filed properly and no authority has been empowered to condone non-compliance of this condition. The said fee of Rs.1000/- was, however, paid subsequently on 2.11.16 as per challan of Punjab National Bank produced to this office on 27.2.2017. But such late payment is not permitted under above Section and even if it is taken into account, the revision application will be considered to have been filed properly on 2.11.16 only when fee of Rs.1000/- was paid by which this application was hit by time limitation as revision application can be filed within 3 months of the communication of the Order-in-Appeal only which was received by the applicant on 23.7.16 itself. Since the fee of Rs.1000/- was paid on 2.11.16 as against the receipt of the Order-in-Appeal on 23.7.16, the revision application cannot be considered to have been filed properly and in time as envisaged in Section 129

DD of the Customs Act, 1962.

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


11.9.18
(R.P.SHARMA)

ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA

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Sh. Adharam Gupta,
No.9, Sanatan Mistry Lane, 3rd Floor, Oriya Para, Salkia,
District Howrah-711 106

Order No. 166/18-Cus dated 11-9-2018

Copy to:-

1. Commissioner of Customs, Central Excise & Service Tax, CR Building Building, Haren Mukherjee Road, Hakimpara, Siligudi-734 001.
2. The Commissioner (Appeals-I), Central Excise, Kolkata.
3. PS to JS (Revision Application)
4. Guard File
5. Spare Copy.

ATTESTED

(Ravi Prakash)
OSD (RA)

Ravi Prakash