

REGISTERED
SPEED POST



F.No. 375/82/B/2016-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.. 20/12/18

Order No. 168/18-Cus dated 13-9-2018 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-I/AIR/480/2016 dated 14.07.2016 passed by the Commissioner of Customs(Appeals), Near IGI Airport, New Delhi.

Applicant : Mrs. Kamlesh Panwar, Delhi.

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

ORDER

A Revision Application No. 375/82/B/2016-RA dated 13.10.16 is filed by Kamlesh Panwar, R/o FG-1/74-C/F Block, Vikas Puri, Delhi (hereinafter referred to as the applicant) against the Order in Appeal No. CC(A)CUS/D-I/EXP/576/2016 dated 22.06.2016, passed by the Commissioner of Customs (Appeals), New Delhi, whereby the order-in-original dated 19/11/2015 confiscating 1270 grams of gold valued at Rs. 31,41,897/- and imposing a penalty of Rs. 6,00,000/- has been upheld.

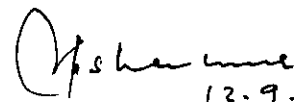
2. The revision application is filed mainly on the ground that the order of the Commissioner (Appeals) is erroneous as gold is not prohibited goods and accordingly absolute confiscation of the gold was not warranted in this case.

3. A personal hearing was fixed on 25.7.2018 and it was attended by Sh. Sanjiv Kumar, Consultant, on behalf of the applicant who reiterated the grounds of revision already pleaded in the revision application. However no one appeared for the respondent and also no request for any other personal hearing is also received from which it is implied that the respondent is not interested in any personal hearing in this matter.

4. The Government has examined the matter and it is observed at the outset that the revision application dated 13/11/2016 was not accompanied by a fee of Rs.1000/- which was required to be paid in this case as per Section 129DD(3) of the Customs Act,1962. Instead the applicant has enclosed a copy of TR-6 Challan dated 06/01/2016 along with the revision application showing payment of Rs. 45,000/-. But it is evident from the said challan itself that this amount was paid as pre-deposit @ 7.5% of the penalty of Rs. 6 lakhs in compliance of Section 129E of the Customs Act as a pre-condition to file an appeal before the Commissioner (Appeals). But this pre-deposit amount has nothing to do with the present Revision Application and the said amount cannot be considered a payment of fee as per Section 129DD(3) of the Customs Act by any legal yardstick. The applicant also did not pay the fee of Rs. 1000/- despite this fundamental error was informed to her vide letter no. 375/82/B/16-RA dated 03/11/2016, issued by the Section Officer of the Revision Application Unit. Thus, the applicant has failed in filing the revision application along

with the fee of Rs 1000/- as is mandated in the above said statutory provision as per which a fee of Rs.1000/- is mandatorily to be accompanied along with the revision application where the amount of duty and interest demanded, fine or penalty levied by an Officer of Customs in the case to which the application relates is more than Rs. 1 lakh. Since in this case the amount of penalty is undisputedly more than Rs.1 lakh, the penalty being Rs. 6 lakhs, a fee of Rs.1000/- was required to be paid before revision application was filed. But no fee was paid either before or at the time of filing of the Revision Application and consequently the revision application filed by the applicant cannot be considered to have been filed properly as payment of the fee is a statutory condition under the aforesaid provision and no authority has been empowered to condone non compliance of this condition in any circumstance.

5. Accordingly, the revision application is rejected as non-maintainable before the Government.


13.9.18
(R.P.Sharma)

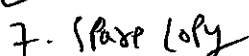
Additional Secretary to the Government of India

Mrs. Kamlesh Panwar,
D/o Sh. Dharam Pal Aggarwal,
R/o FG-1/74-C/F Block,
Vikas Puri, Delhi-110018

Order No. 168/18-Cus dated 13-9-2018

Copy to:

1. The Commissioner of Customs, New Customs House, New Delhi-37
2. The Commissioner of Customs (Appeals), New Customs House, New Delhi-37
3. The Additional Commissioner, Customs, IGI, Airport, New Delhi-37
4. Sh. Sanjiv Kumar, Consultant, AG-1/65 B, Vikas Puri, New Delhi-110 018.
5. PA to AS(RA)
6. Guard File.

7. 

ATTESTED

(Nirmala Devi)
Section Officer(RA)