

REGISTERED
SPEED POST



F.No. 375/85/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... 20.11.18

Order No. 169/18-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 : Mohd. Mukhatib, U.P.

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

ORDER

A Revision Application No. 375/85/B/2016-RA dated 18.11.16 is filed by Mohd. Mukhatib, R/o H. No. 60, Village Bajhari, Muzaffar Nagar, U.P. (hereinafter referred to as the applicant) 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), New Delhi, whereby the order-in-original dated 19/08/2015 confiscating 446.56 grams of gold valued at Rs. 11,98,066/- and imposing a penalty of Rs. 1,80,000/- has been upheld.

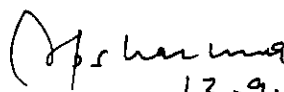
2. The revision application is filed mainly on the ground that the order of the Commissioner (Appeals) is erroneous as gold is not prohibited goods and the penalty is also excessive.

3. A personal hearing was fixed on 23.7.2018. But it was not availed either by the applicant or the respondent and no request for any other date of the hearing is also received from which it is implied that the applicant as well as the respondent is not interested in availing the personal hearing in this case.

4. The Government has examined the matter and it is observed at the outset that the revision application is filed after the delay of 38 days and no reason for the said delay has been explained in the revision application or otherwise. In fact no application of condonation of delay is presented before the Government even after it was pointed out to the applicant vide office letter No.375/85/B/2016-RA dated 13.12.16. Whereas under Section 129DD(2) of the Customs Act, a delay of three months can be condoned by the Government only on being satisfied that the applicant was prevented by a sufficient cause in filing the revision application within normal period of three months. Since no such request is made by the applicant in this case, the delay involved in the present revision application is not condonable and consequently the application filed by the applicant is time barred. In addition, the revision application filed on 18.11.16 is not accompanied by fee of Rs.1000/- which was required to be paid in this case as per Section 129DD(3) of the Customs Act, 1962. As per this Section 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.1.00 lakh. Since in this case the amount of penalty is undisputedly more than Rs.1.00 lakh, the penalty being Rs.1,80,000/-, a fee of Rs.1000/- was required to be paid before revision application was filed. But no fee was paid and consequently the revision application filed by the applicant cannot be considered to have been filed properly as payment of the fee is a statutorily mandatory condition under the aforesaid provision and no authority has been empowered to condone noncompliance of this condition in any circumstance. Thus the revision application filed in this case is not maintainable for this reason also.

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


13-9-18
(R.P.Sharma)

Additional Secretary to the Government of India

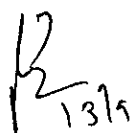
Mohd. Mukhatib
H.No. 60, Village Bajhari, Muzaffar Nagar, UP
Order No. 169/18-Cus dated 13-5-2018

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1. The Commissioner of Customs, New Customs House, New Delhi-37
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3. The Additional Commissioner, Customs, IGI, Airport, New Delhi-37
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5. Guard File.

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ATTESTED


13/9

(Ravi Prakash)
OSD (REVISION APPLICATION)