

REGISTERED  
SPEED POST



F. No. 380/155/B/2016-R.A.  
GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(DEPARTMENT OF REVENUE)

14, HUDCO VISHALA BLDG., B WING,  
6<sup>th</sup> FLOOR, BHIKAJI CAMA PLACE,  
NEW DELHI-110 066

Date of Issue...22/11/18

Order No. 201/2018-Cus dated 22-11-2018 OF THE GOVERNMENT OF INDIA, PASSED BY SHRI R.P. SHARMA, PRINCIPAL COMMISSIONER AND 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. KOL/CUS(Airport)/SS/206/2016 dt. 19.07.2016, passed by the Commissioner of Customs (Appeals), Kolkata.
- Applicant : The Joint Commissioner of Customs, Air Intelligence Unit Cell, N.S.C.B.I. Airport, Kolkata.
- Respondent: Mr. Challayya Saragadam, S/o Mr. Appa Rao Saragadam, D.No. 63-1-107/A, Ashok Nagar, Malkapuram, Visakhapatnam- 530011, Andhra Pradesh.

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**ORDER**

A Revision Application no. 380/155/B/2016-R.A. dt. 23.09.2016 is filed by the Joint Commissioner of Customs, Air Intelligence Unit Cell, N.S.C.B.I. Airport, Kolkata (hereinafter referred to as the applicant) against the Order-in-Appeal no. KOL/CUS(Airport)/SS/206/2016 dt. 19.07.2016, passed by the Commissioner of Customs (Appeals), Kolkata, whereby the appeal of Mr. Challayya Saragadam, the respondent, has been allowed and the Order-in-Original of the Joint Commissioner of Customs confiscating gold chain weighing 194 gms, valued at Rs. 5,35,440/-, and imposing personal penalty of Rs. 75,000/- on the respondent has been set aside.


2. The Revision Application is filed mainly on the grounds that the Commissioner (Appeals) has passed the Order-in-Appeal erroneously as the respondent was not eligible to import gold into India and he had not declared the importation of prohibited gold chain at the time of his arrival at the airport from Myanmar.

3. A personal hearing was fixed on 16.11.2018. But no one availed the said hearing for the applicant and even no request for any other date of hearing was also received from which it is implicit that the applicant is not interested in availing the personal hearing in this case. However, Mr. Challayya Saragadam, the respondent, appeared in person and pleaded that the order of Commissioner (Appeals) is absolutely correct and the Revision Application filed by the Joint Commissioner is not maintainable as the gold chain worn by him at the time of his arrival was already in his use in India before he visited Myanmar in February 2015.

4. The Government has examined the matter and it is observed that the Commissioner(Appeals) has clearly noted in his order that the respondent had family connection with Myanmar as his in-laws are based in Yangon, he frequently visited along with his family members to meet his in-laws, the gold chain confiscated in this case had actually been gifted by his father-in-law in 2009 and he had declared the said gold chain along with other gold ornaments worn by him on his body to the Myanmar

Customs authorities on 02.02.2015 when he reached Myanmar from Kolkata. Accordingly, the Commissioner (Appeals) has concluded on the basis of the above facts that the gold chain was already in use of the respondent in India prior to his visit to Myanmar on 02.02.2015 and he had not brought any gold articles from Myanmar on 13.02.2015 so as to attract any legal action against him under the Customs Act, 1962. The facts are not refuted even by the applicant in the Revision Application or otherwise and still the Order-in-Appeal is challenged on the ground that the respondent was not eligible to bring any gold article from Myanmar to India. But the Government does not find any merit in this contention of the applicant in absence of any evidence produced by the applicant to establish that the gold chain was not already in use of the respondent and he had brought new gold chain from Myanmar on 13.02.2015 while arriving at Kolkata airport from Myanmar. On the contrary, the respondent produced a copy of Passenger Declaration Form given by the respondent to the Myanmar Customs Department on 02.02.2015 during the Personal hearing as per which he was already in possession of one gold chain, one diamond ring and one moonstone ring. This evidence has not been questioned by the applicant in the Revision Application even when the Commissioner (Appeals) has heavily relied upon it in his order. On the basis of this documentary evidence and above narrated facts, the Government is also convinced that the Revenue has not been able to disprove that the said gold chain brought by respondent on 13.02.2015 was not old and was not in his use prior to his visit to Myanmar on 02.02.2015. Therefore, the Government does not find any fault in the Commissioner (Appeals)'s order.

5. Accordingly, the Revision Application filed by the Joint Commissioner of Customs is rejected.

  
22.11.18  
(R.P. Sharma)

Additional Secretary to the Government of India

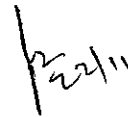
The Joint Commissioner of Customs,  
Air Intelligence Unit Cell,  
N.S.C.B.I. Airport, Kolkata.

GOI ORDER No. <sup>201</sup> / 19 Cus dt. 22-11-2018

Copy to-

- 1) The Commissioner of Customs (Airport & Admn.), N.S.C.B.I. Airport, Kolkata.
- 2) The Commissioner of Customs (Appeals), 3<sup>rd</sup> Floor, Custom House, 15/1, Strand Road, Kolkata-700001.
- 3) Mr. Challayya Saragadam, S/o Mr. Appa Rao Saragadam, D.No. 63-1-107/A, Ashok Nagar, Malkapuram, Visakhapatnam- 530011, Andhra Pradesh.
- 4) P.S. to A.S. (R.A.)
- 5) Guard file
- 6) Spare Copy

ATTESTED



(Ravi Prakash)

O.S.D. (R.A.)