

REGISTERED

SPEED POST



F. No. 375/06/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... 7.1.2018

ORDER NO 207/18 Cus dated 3-12-2018 OF THE GOVERNMENT OF INDIA, PASSED BY SHRI R. P. SHARMA, 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. CC(A)Cus/D-I/Air/1146/2015 dated 31/07/2015 passed by the Commissioner of Customs (Appeals), New Delhi.

APPLICANT : Mr. Mairaj Ud Din Gilhar, Srinagar

RESPONDENT: Commissioner of Customs, New Delhi.

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**ORDER**

A Revision Application No. 375/06/B/2016-R.A. dated 19/01/2016 has been filed by Mr. Mairaj Ud Din Gilhar, Srinagar (hereinafter referred to as the applicant) against the Commissioner (Appeals)'s Order No. CC(A)Cus/D-I/Air/1146/2015 dated 31/07/2015 whereby the order of the Additional Commissioner of Customs, New Delhi, confiscating absolutely 13 pcs of Shahtoosh Shawls valued at Rs. 65 lakhs, confiscating 136 other shawls worth Rs. 6,82,000/- but allowing their redemption on payment of fine of Rs. 1 lakh and imposing personal penalty of Rs. 10 lakhs on the applicant, has been upheld.

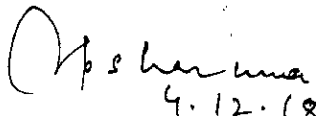
2. A personal hearing was offered on 07/08/2018 which was availed by Sh. S. S. Arora, Advocate, for the applicant and he reiterated the grounds of revision already pleaded in the revision application. He further requested for a period of 15 days to furnish additional written submissions which were received in this office on 10/09/2018 in which it has been informed that to support their case that they had received the copy of the Show Cause Notice after six months from the seizure of goods, they have requested Delhi Customs vide their RTI letter dated 04/09/2018 to inform the date of the service of Show Cause Notice. He also requested in the said letter to give them another personal hearing before final decision of the case. Accordingly, another hearing was offered on 25/10/2018 which was attended by Sh. S. S. Arora, Advocate, for the applicant and instead of adding anything new he submitted that the case may be decided on the basis of the facts mentioned in their revision application. But no evidence with regard to late receipt of Show Cause Notice was given during the hearing. However, no one appeared for the respondent on both the dates of hearing and no request for any other date of hearing was also

received from which it is implied that they are not interested in availing any personal hearing in this matter.

3. The government has examined the matter and it is found that the revision application has been filed mainly on the grounds that the Commissioner (Appeals) has wrongly upheld the order of the Additional Commissioner of Customs with regard to absolute confiscation of 13 Shawls of the value of Rs. 65 lakhs by considering them as Shahtoosh Shawls on the basis of a test report given by Wildlife Institute of India, Dehradun, and because the Show Cause Notice was issued to him after more than 6 months from the seizure of the shawls. However, it is found that the point regarding issuing of the Show Cause Notice after 6 months was never raised before the original adjudicating authority or the first appellate authority as per their Orders and no evidence has been adduced even now when this argument is advanced for the first time in their additional submissions dated 10/09/2018 which was received after first hearing was completed on 07/08/2018. As per their additional submissions, they had requested the Custom House to specify the date of serving the Show Cause Notice on him vide his RTI letter dated 04/09/2018. But no such information is given thereafter with regard to receiving of the Show Cause Notice after 6 months of the date of seizure of the goods. Thus, their above contention that the Show Cause Notice was received by them after specified period of 6 months is not substantiated by any proof and above all this argument was never raised before the lower authorities because of which Order-in-Appeal cannot be questioned at this juncture on this ground. Their other objection with regard to the test report given by the Wildlife Institute of India is also found devoid of any force as no reason is given for having any doubt about the correctness of this report.

On the contrary, the said Institute is an eminent institution for the subject relating to wildlife and no other testing agencies as named by the applicant in his revision application are at par with the Wildlife Institute of India. Above all, the test report of the Wildlife Institute of India had been supplied to the applicant earlier, but no objection with regard to its fairness or correctness was raised before the original adjudicating authority as well as the appellate authority. Therefore, for this reason also their fresh plea that the shawls should be got re-tested from Government Arts Emporium, Baba Kharak Singh Marg, Delhi or Silk Board of India, Srinagar, or from the concerned experts of the Chamber of Commerce cannot be entertained by the Government at this stage. Therefore, the government does not find any fault in the order of the Commissioner (Appeals).

4. Accordingly, the revision application filed by the applicant is rejected.

  
4.12.18  
(R. P. SHARMA)

ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA

Mr. Mairaj Ud Di Gilhar, S/o Mr. Abdul Rehman Gilkar  
R/o Debtel Gilkar Dure, Zaina Kadal, Srinagar (J&K)

ORDER NO. 207/2018 - Cus dated 3-12-2018


Copy to:-

1. Commissioner of Customs, IGI Airport, T-3, New Delhi-37.
2. The Commissioner of Customs (Appeals), NCH, New Delhi

3. P.O. to AS (RA)

4. ~~Handwritten signature~~ ✓

5. Spare copy

ATTESTED  
  
(Ashish Tiwari)  
Assistant Commissioner