

REGISTERED

SPEED POST



F. No. 380/24/B/2017-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..7/11/18

ORDER NO 21/18-Cus dated 4-12-2018 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. KOL/CUS(A/P)/AA/433/2017 dated 27/04/2017 passed by the Commissioner of Customs (Appeals), Kolkata.

APPLICANT : Commissioner of Customs, Kolkata

RESPONDENT: Arinjan Mazumdar, Kolkata

ORDER

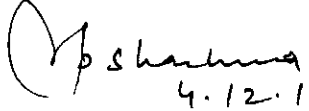
A Revision Application No. 380/24/B/2017-R.A. dated 05/07/2017 has been filed by the Joint Commissioner of Customs, Kolkata (hereinafter referred to as the applicant) against the Commissioner (Appeals)'s Order No. KOL/CUS(A/P)/AA/433/2017 dated 27/04/2017 whereby the order of the Joint Commissioner of Customs, Kolkata, confiscating absolutely the foreign currency equivalent to Rs. 6,19,500/- and imposing a penalty of Rs. 6,19,500/- on the respondent has been modified to the extent that the foreign currency has been allowed to be redeemed on payment of redemption fine of Rs. 1,40,000/- and the penalty on the respondent has been reduced to Rs. 70,000/-.

2. A personal hearing was offered on 23.10.2018. However, no one appeared for the applicant as well as the respondent. Further no request for any other date of hearing was also received from them from which it is implied that they are not interested in availing any personal hearing in this matter. Hence the case is taken up for the decision on the basis of available case records.

3. The government has examined the matter and found that the revision application has been filed mainly on the ground that the Commissioner (Appeals) has erred by allowing the redemption of the absolutely confiscated foreign currency which are prohibited goods by imposing redemption fine and personal penalty on the respondent. While it is not in dispute that the respondent attempted to illegally export the foreign currencies without declaring the same to the Customs authorities at the time of departure and the Commissioner (Appeals) has clearly held in his order that foreign currency is prohibited goods, he has allowed redemption of the confiscated currencies on payment of fine by relying upon several case laws to

support his decision to release confiscated foreign currencies. The Government also finds that Section 125 of the Customs Act, 1962, dealing with the issue relating to release of such goods, does not place a complete ban on allowing the redemption of even prohibited goods and redemption of such foreign currencies has been allowed in several case in past also by the Government as well as various courts for which some of the examples are available in the case laws relied upon by the Commissioner (Appeals) in his order. Therefore, the Government does not accept the revenue's objection with regard to Order-In-Appeal allowing redemption of foreign currencies on payment of fine and penalty and accordingly the revenue's revision application is not found maintainable.

4. In terms of the above discussion, the revision application filed by the revenue is rejected.


4.12.18
(R. P. SHARMA)

ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA

The Commissioner of Customs,
(Airport & ACC), Customs House,
Kolkata.

ORDER NO. 211/2018 - Cus dated 4-12-2018

Copy to:-

1. Mr. Arinjan Mazumdar, S/o Mr. Anjan Mazumdar, 162/610, Lake Garden, 3rd Floor, PS- Lake, Kolkata-700045.
2. The Commissioner of Customs (Appeals), Kolkata
3. P.S. to A.S.
4. Guard File

ATTESTED


(Ashish Tiwari)
Assistant Commissioner