

REGISTERED
SPEED POST



GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
8th Floor, World Trade Centre,
Centre - I, Cuffe Parade,
Mumbai-400 005

F.No. 373/57/B/16-RA / 9342

Date of Issue : 18.09.2021

ORDER NO. ²²⁴ /2021-CUS (SZ) / ASRA / MUMBAI/ DATED 07.09.2021 OF THE GOVERNMENT OF INDIA PASSED BY SHRI SHRAWAN KUMAR, PRINCIPAL COMMISSIONER & EX-OFFICIO ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA, UNDER SECTION 129DD OF THE CUSTOMS ACT, 1962.

Applicant : Shri A Shanavas @ Naveen

Respondent : Pr. Commissioner of Customs, Mumbai.

Subject : Revision Applications filed, under Section 129DD of the Customs Act, 1962 against the Order in appeal No. TCP-CUS-000-APP-090-16 dated 05.04.2016 passed by the Commissioner of Customs (Appeals-II), Trichirappalli.

ORDER

This revision application has been filed by Shri A Shanavas @ Naveen (herein after referred to as the Applicant) against the Order in appeal No. TCP-CUS-000-APP-090-16 dated 05.04.2016 passed by the Commissioner of Customs (Appeals-II), Trichirappalli.

2. The issue briefly is, that on intelligence, the officers of CRU-DRI along with independent witnesses maintained surveillance over the coast of Mumbalaipattinam, for the movement of gold bars. The Officers intercepted one person Shri. Manikandan, who told that he was about to board a bus to Kumbakonam and admitted that there were two packets with gold bars of foreign origin in his black backpack bag and produced the same. Shri Manikandan further informed the his brother-in-law the applicant, Shri Shanavas @ Naveen, instructed him to go to Pattukottai to receive gold bars from those persons who would be calling him (manikandan) in his mobile phone and bring them to Chennai; that accordingly, two persons viz., S/Shri Khader Mohideen and Ibrahim came together in two separate motorcycles and handed over one packet each containing gold bars to him and left immediately. The officers identified and intercepted two persons, on enquiry, one person identified himself as Shri Khader Mohideen of Mumbalaipattinam and the other person identified himself as Shri Ibrahim of Mumbalaipattinam. Then Shri Manikandan identified the said persons as the ones who has handed over the said packets containing gold bars to him. On enquiry, S/Shri. Khader Mohideen and Ibrahim admitted that they had handed over the said packets containing gold bars to Shri Manikandan as per the instructions of Shri Kandasamy of Jambuvanodai, Muthupettai; that these gold bars were smuggled into India from Sri Lanka by boat through Mumbalaipattinam coast on 28.10.2013 and received by them at the coast as per the instructions of Shri Kandasamy. On detailed examination, it was found that one packet had

10 pieces of gold bars in various sizes and the other packet had 11 pieces of gold bars in various sizes. All the said 21 pieces of gold bars were found to be in crude form and traces of marking of English alphabets were seen on few bars. The said 21 pieces of gold bars were of 24 carat purity, totally weighing 7566.1 gm and valued at Rs.2,34,51,910/-. Then, the officers seized the said 21 pieces of gold bars, totally weighing 7566.1 grams valued at Rs.2,34,51,910/- along with the packing materials.

3. After due process of law the lower authority confiscated the said 21 gold bars absolutely under Sec.111(a) and Sec.111(d) of Customs Act,1962 of the Customs Act,1962 and imposed penalty on all the persons involved in the said smuggling. The applicant Shri. A. Shanavas @ Naveen also imposed with a penalty of Rs. 25,00,000/-under Sec.112(b) of Customs Act,1962.


4. Aggrieved by this order the applicant filed an appeal with the Commissioner of Customs (Appeals), the Commissioner (Appeals) vide its Order-in-Appeal No. TCP-CUS-000-APP-090-16 dated 05.04.2016 rejected the appeal as timebarred as the appeal was filed after a delay of 153 days including condonable delay of 30 days.

5. Aggrieved with the above orders the Applicant, has filed this revision application for setting aside the orders of the lower authorities and reduce the penalties imposed.

6. The Government has examined the matter and it is observed that as per first proviso to Section 129A read with Section 129DD of Customs Act, 1962, a revision application can be filed before the Government against the order-in-appeal if it relates to the issue of baggage, drawback of duty and short landing of the goods. But no such issue is involved in the above mentioned order-in-appeal, the case involves seizure of gold smuggled from Sri Lanka and does not pertain to baggage. Therefore, the Government does not have jurisdiction to deal with this Revision Application.

7. In view of above discussions, Government is of opinion that the issue involved in this case does not fall within the jurisdiction of this authority. The revision application is thus not maintainable before this authority for want of jurisdiction in terms of Section 129A read with Section 129DD of the Customs Act, 1962.

8. The revision application, thus stands rejected as being non-maintainable for lack of jurisdiction.


7/9/21
(SHRAWAN KUMAR)
Principal Commissioner & ex-officio
Additional Secretary to Government of India

ORDER No.224/2021-CUS (WZ) /ASRA/MUMBAI DATED 07.08.2021

To,

1. Shri A Shanavas, c/o Smt. Kamalamalar Palanikumar, Advocate, No. 10, Sunkurama Street, Chennai - 600 001.
2. The Commissioner of Customs, No. 1, Williams Road, Cantonment, Trichy 620 001.

Copy to:

3. Sr. P.S. to AS (RA), Mumbai.
4. Guard File. ,
5. Spare Copy