

REGISTERED  
SPEED POST



F.No. 372/10/B/ 2017-RA  
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.....13/11/18

Order No. 225/18-Cus dated 7-12-2018 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. KOL/CUS(A/P)/AA/06/2017 dated 12.01.2017, passed by the Commissioner of Customs (Appeals), Kolkata.

Applicant : Sh. Kamlesh Pandey, Kolkata

Respondent : Commissioner of Customs, Kolkata.

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**ORDER**

A Revision Application no. 372/10/B/2017-RA dated 25.04.2017 is filed by Mr. Kamlesh Pandey, a resident of Kolkata (hereinafter referred to as the applicant) against the Order-in-Appeal no. KOL/CUS(A/P)/AA/06/2017 dated 12.01.2017, passed by the Commissioner of Customs (Appeals), Kolkata, whereby the applicant's appeal filed against the Order-in-Original has been rejected for not pre-depositing the amount @7.5% of the penalty of Rs.17,000/- as per Section 129E of the Customs Act, 1962.

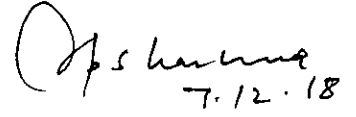
2. The Revision Application is filed mainly on the grounds that the gold jewellery is not prohibited, he had honestly declared all the goods and accordingly no penalty was warranted in this case.

3. A personal hearing was fixed in this case on 05.09.2018. But the applicant, vide his letter dated 27/08/2018, informed that the case be decided on the basis of available records and he does not want any personal hearing in the matter. The Additional Commissioner of Customs also, vide his letter dated 30/08/2018, has informed that the Commissioner (Appeal)'s order is correct and does not need any revision. Thus both the applicant and the respondent are not interested in availing personal hearing and accordingly the revision application is taken up for a decision as per available records.

4. The Government has examined the matter and it is found from the Order-in-Appeal that the applicant's appeal before the first appellate authority is rejected solely on the ground that the applicant did not pre-deposit the amount @7.5% of the penalty amount as stipulated in Section 129E as a pre-condition for the Commissioner (Appeals) to entertain any appeal. Non-payment of the said amount is not disputed by the applicant also in the Revision Application or otherwise and the Order-in-Appeal has been challenged on the grounds such as gold is not prohibited goods and penalty is excessive etc without uttering a single word as to how their appeal could be entertained by the Commissioner (Appeals) when Section 129E itself categorically provides that Commissioner (Appeals) shall not entertain any appeal unless the appellant had deposited the amount at the rate of 7.5% of the duty or the penalty. Since the condition of pre-depositing the amount was not complied

with, the rejection of his appeal by the Commissioner (Appeals) on this ground cannot be faulted by the Government.

5. Accordingly, no interference in the Order-in-Appeal is warranted and the Revision Application is rejected.

  
7.12.18

(R.P.Sharma)

Additional Secretary to the Government of India

Mr. Kamlesh Pandey,  
C/o Punam Chand Jain,  
64, Burtolla Street, Kolkata-700 007

Order No. 225/18-Cus dated 7-12-2018

Copy to:

1. Commissioner of Customs (Airport & Administration), NSCB International Airport, Kolkata.
2. Commissioner of Customs (Appeals), 3<sup>rd</sup> Floor, Custom House, 15/1, Strand Road, Kolkata-700 001.
3. PS to AS(RA)

*Copy forward file*



(ASHISH TIWARI)

A.C. (REVISION APPLICATION)