

REGISTERED
SPEED POST



F.No. 372/12/B/2017-RA
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..13/12/18

Order No. 227/18-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/05/2017 dated 10.1.2017, passed by the Commissioner of Customs (Appeals), Kolkata
- Applicant : Mr. Dheeraj Mishra, c/o Punam Chand Jain, Burtolla Street, Kolkata-700007
- Respondent : Commissioner of Customs (Airport), NSCBI Airport, Kolkata

ORDER

A Revision Application No.372/12/B/2017-RA dated 25.4.2017 is filed by Mr. Dheeraj Mishra, a resident of Vill-Mishirpur, Post-Asnao Bazar, Gyanpur, Sant Ravidas Nagar, U.P. (hereinafter referred to as the applicant) against the Order-in-Appeal No. KOL/CUS(A/P)/AA/05/2017 dated 10.1.2017, 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.22000/- as per Section 129E of the Customs Act, 1962.

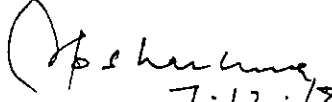
2. The revision application is filed mainly on the grounds that he did not conceal the gold, the gold brought by him was meant for home consumption and the amount of Rs.2200/- @10% of the penalty of Rs.22000 has been deposited subsequently on 18.4.2017.

3. Personal hearing was held in this case on 13.09.2018. However, the advocate of the applicant, vide his letter dated 3.9.18 requested that he does not want any personal hearing in this case and the case may be decided as per the available records. Accordingly, the revision application is taken up for a decision on the basis of 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 during the personal hearing and it is not elaborated 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 pre 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 and payment of the required amount after his appeal was rejected cannot redress the non-compliance of Section 129E of the Customs Act.

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

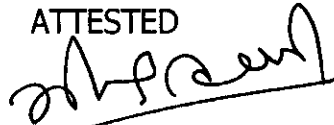
Mr. Dheeraj Mishra,
C/o Shri Punam Chand Jain,
64, Burtolla Street,
Kolkata-700007

Order No. 227/18-Cus dated 7-12-2018

Copy to:

1. Commissioner of Customs (Airport), NSCBI Airport, Kolkata-700052
2. Commissioner of Customs (Appeals), 3rd Floor, Customs House, 15/1, Strand Road, Customs House, Kolkata-700001
3. Assistant Commissioner of Customs, AIU Cell, NSCBI Airport, Kolkata.
4. PA to AS(RA)
5. ~~Guard File.~~

ATTESTED



(Ashish Tiwari)

Assistant Commissioner