

REGISTERED

SPEED POST



F. No. 375/43/B/2015 – 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... 12/1/18

ORDER NO. 24/18- Cus dated 11-1-2018 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/1145/2015 dated 30.07.2015 passed by
Commissioner (Appeals), NCH, New Delhi.

APPLICANT : Ms. Phornchanok Namaliwan

RESPONDENT : Commissioner of Customs, New Delhi

A Revision Application No 375/43/B/2015-R.A.Cx Dated 07.09.2015 has been filled by Ms. Phornchanok Namaliwan, Noida (hereinafter referred to as the applicant) against the Order-In-Appeal No. CC (A)CUS/1145/2015 dated 29.07.2015, issued by the Commissioner of Customs (Appeals), New Delhi, who has upheld the order of the Additional Commissioner of Customs, IGI Airport, New Delhi, confiscating the seized gold chain and gold bangles, weighing 530.0 grams, valued at Rs. 12,98,500/-

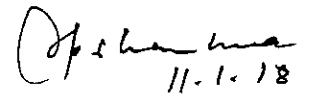
2. The revision application has been filed mainly with a request that re-export of the impugned jewellery may be allowed as the applicant is a Thai national or its redemption may be allowed on a nominal redemption fine and penalty. A personal hearing was held on 18.12.2017 and Ms. Sangita Bhayana, Advocate, appeared on behalf for the applicant who reiterated the grounds of revision and requested for reduction in fine and penalty. However, Sh. Sanjay Kumar, Air Customs Officer, appearing for the respondent, opposed the revision application.

3. The above request of the applicant regarding re-export of confiscated gold is examined in the light of order of the Commissioner (Appeals). But it is noticed from the order of Commissioner (Appeals) that no such request for re-export of the confiscated gold was made before him by the applicant. The applicant has also not provided any evidence to show that she had requested the Commissioner (Appeal) to allow her to re-export the confiscated gold. Therefore, no defect can be attributed to the order of the Commissioner (Appeal) on this account and the Government being only a revisionary authority in this case and not an appellate authority, it does not consider it proper at this

juncture to entertain an additional prayer of the applicant which was never raised before Commissioner (Appeals).

4. However, as regards her alternative prayer to reduce redemption fine and penalty, it is observed that Additional Commissioner of Customs has imposed redemption fine of Rs.2,00,000/- only which is just 15% of value of confiscated goods. Whereas it is generally seen that redemption fine in such case is imposed at the rate of more than 30% of the value of the confiscated goods. Thus the redemption fine imposed by Additional Commissioner of customs and upheld by the Commissioner (Appeals) is already very modest and reasonable. Therefore, the Government finds that no further reduction in redemption fine is warranted. However, personal penalty of Rs. 2,00,000/-, which is equivalent to redemption fine in this case, is certainly on the higher side and considering the fact that the applicant is a Foreign national and has lost her husband recently, the Government considers it as a deserving case for a lenient view. Accordingly, the personal penalty is reduced from Rs.2,00,000/- to Rs.50,000/-.

5. In view of above discussion, the revision application is allowed and the order of Commissioner (Appeals) is modified to above extent.


11.1.18

(R. P. SHARMA)

ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA

Mr. Phornchanok Namaliwan,
R/O B-541, Ground Floor, Sector – 31,
Noida (U.P.)

ORDER NO. 24/18 – Cus dated 11/1/2018

Copy to:-

1. The Commissioner of Customs, IGI Airport, Terminal -3, New Delhi – 110037.
2. The Commissioner of Customs (Appeals), IGI Airport, Terminal - 3 New Customs House Near IGI Airport, New Delhi – 110037.
3. The Addl. Commissioner of Customs, IGI Airport, Terminal – 3, New Delhi.
4. P.S. to A.S.
5. Guard File
6. Spare copy

ATTESTED

11.1.2018

(Debjit Banerjee)
Sr. Technical Officer