

SPEED POST



**F. No. 372/47/B/2019—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.. 1/2/21.....

Order No. 24/21-CUS dated 01-02-2021 of the Government of India, passed by Shri Sandeep Prakash, 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/358/2016 dated 29/12/2016 passed by Commissioner of Customs (Appeals), Kolkata.

Applicant: Mr. Krishnani Nandlal Bhagumal, Nagpur.

Respondent: Pr. Commissioner of Customs (Airport) Kolkata.

ORDER

A Revision Application No. 372/47/B/18—R.A. dated 10/07/2018 is filed by Mr. Krishnani Nandlal Bhagumal, Nagpur (hereinafter referred to as applicant) against the Order-in-Appeal No. KOL/CUS (A/P)/AA/358/2016 dated 29/12/2016 passed by Commissioner of Customs (Appeals), Kolkata wherein the applicant's appeal against Order-in-Original dated 15/02/2016 passed by Assistant Commissioner of Customs, Kolkata has been rejected. An application dated 06/07/2018 has also been filed for Condonation of Delay.

2. The revision application has been filed mainly on the grounds that the Commissioner (Appeals) has erred by rejecting the appeal as gold, not being 'prohibited goods', should have been allowed to be redeemed on payment of fine. Even the penalty imposed is on a higher side.

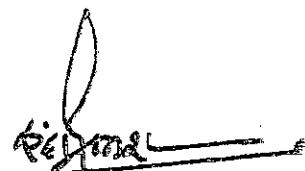
3. Personal hearing was held on 29.01.2021 and was attended by Sh. Subrato Basu, Preventive Officer, in virtual mode who submitted that the revision application is filed beyond condonable period and hence may be rejected on this ground alone. On merits, he supported the Order-in-Appeal. No one attended from the applicant's side but an email has been received seeking adjournment on the grounds that the advocate is unwell and will not be able to attend the personal hearing. However, for the reasons indicated hereinafter the instant revision application cannot be maintained

and, hence, no useful purpose will be served by prolonging the proceedings. As such, the request for adjournment is not entertained.

4. On examination of the relevant case records, the Commissioner (Appeals)'s order and the Revision application, it is observed that the applicant had earlier filed an appeal before CESTAT, Kolkata, against the impugned Order-in-Appeal. The CESTAT, vide Final Order No. 78553/2017 dated 05/12/2017, dismissed the appeal as non-maintainable and the said order was admittedly conveyed to the applicant on 27/12/2017. The instant revision application has been filed on 10/07/2018 i.e. after a gap of 195 days from the date of receipt of CESTAT's Order. As per Section 129DD (2) of Customs Act, 1962, the application under subsection (1) i.e. Revision Application can be made within 3 months from the date of communication to the applicant of the order against which the application is being made. However, proviso to sub section (2) provides Government the discretion to allow applicant to present the application within a further period of 3 months if the Government is satisfied that the applicant was prevented by sufficient cause from presenting the application within the normal period of 3 months. Thus, revision application can be filed, under Section 129DD, within a period of three months or further extended period of three months i.e. maximum period (including condonable period) within which the application can be filed is six months. As such, in the instant case, the revision application ought to have been filed by 27/03/2018 and delayed filing could have been condoned, upon sufficient cause being shown, if revision application was filed

latest by 27/06/2018. The instant application has, therefore, been filed 14 days beyond even the condonable period. Hon'ble Supreme Court in the case of M/s Singh Enterprises vs. Commissioner of Central Excise, Jamshedpur [2007-TIOL-231-SC-CX] has held that the appellate authority has no power of condonation beyond the statutorily prescribed condonable period. Therefore, the revision application is liable to be rejected as time barred without going into the merits of the case.

5. The revision application is rejected, accordingly.



(Sandeep Prakash)

Additional Secretary to the Government of India

Mr. Krishnani Nandlal Bhagumal,
S/o Sh. Krishnani Nandlal Bhagumal,
Block No. 131, Near Kamal Phool Chowk,
Jaripataka, Nagpur City, Maharashtra-440014.

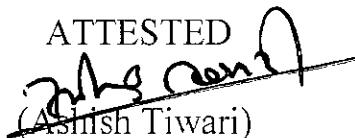
G.O.I. Order No. 24/21-Cus dated 01-02-2021

Copy to:-

1. Commissioner of Customs (Airport and Administration), Kolkata.
2. Commissioner of Customs (Appeals), Kolkata.
3. Sh. Akshay Anand & Archana Sharma, Advocates, Ch. No. 190, Patiala House Courts, New Delhi-110001.
4. PA to AS(Revision Application)
5. Guard File

6. Spare Copy

ATTESTED



(Ashish Tiwari)

Assistant Commissioner (R.A.)