

REGISTERED

SPEED POST



F. No. 380/15/B/2018-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... 4/01/18

ORDER NO. 247/18-Cus dated 24/12/2018 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/D-1/Air/168/2018 dated 06.06.2018, passed by the Commissioner of Customs (Appeals), NCH New Delhi.

APPLICANT : The Commissioner of customs, NCH New Delhi.

RESPONDENT : Sh Bismaya Pattanayak, Cuttack

ORDER

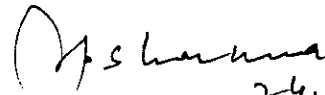
A Revision Application No. 380/15/B/2018-R.A. dated 07/09/2018 has been filed by The Assistant commissioner of customs, IGI Airport, New Delhi (hereinafter referred to as the applicant) against the Order in appeal no CC(A)Cus/D1/Air/168/2018 dated 06.06.2018 whereby the appeal of the respondent, Mr Bismaya Pattanayak, has been allowed and the order in original confiscating the gold and imposing the penalty on respondent has been set aside

2. The revision application has been filed mainly on the ground that the Commissioner (Appeals) has failed to appreciate that the respondent attempted to smuggle the gold with an intention to evade custom duty and Order-in-Appeal has been passed erroneously. The respondent has filed a detailed reply dated 24.10.2018 contesting the revision application mainly on the ground that he was a domestic passenger and, therefore, the question of baggage being bonafide or otherwise is irrelevant

3. The Government has examined the matter and it is observed that the Commissioner (Appeals) has allowed the respondent's appeal on the ground that nowhere in the Order-in-Original it has been mentioned that the flight was coming from international sector and the charge of respondent having received the gold from someone else is unsubstantiated. The government also finds that the respondent had arrived at Delhi T-3 airport apparently by a domestic flight from Bhubneshwar and the departmental case is not at all the gold was imported by the respondent as part of a baggage as defined in Section 2(3) of the Customs Act,1962. Accordingly, it is evident that it is a case of general seizure of gold on the premise that the gold was smuggled by the respondent by a method, other than importation as a baggage. As per 1st proviso to section 129A (1) read with Section 129 DD of the Customs Act, a revision application

can be filed before the central government against the Order-in-Appeal only if it relates to any goods imported or exported as baggage or short landing or imported goods or payment of drawback. But there is no provision for filing the revision application where the Order-in-Appeal relates to the general seizure of the smuggled goods as is in the present case. Therefore, the government finds that it does not have jurisdiction to deal with the aforementioned Order-in-Appeal which does not involve any of the issues specified in first proviso to Section 129 A (1) which are mentioned above.

4. In view of above discussion, the revision application is rejected as non-maintainable due to lack of jurisdiction without going into the merit of the case.


24.12.18
(R. P. SHARMA)

ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA

The Commissioner of Customs,
Indira Gandhi International Terminal-3
New Delhi -110037

ORDER NO. 247/18 -Cus dated 24/12/2018

Copy to:-

1. Sh. Bismaya Pattanayak, R/o Adhalia P.O. Phulnakhara District, Cuttack Odisha.
2. The Additional Commissioner of Customs, IGI Airport Terminal-3, New Delhi-110037.
3. The Assistant Commissioner of Customs, IGI Airport Terminal-3, New Delhi-110037.
4. P.S. to Additional Secretary.
5. Guard File

ATTESTED

(ASHISH TIWARI)
ASSISTANT COMMISSIONER (REVISION APPLICATION)