

REGISTERED
SPEED POST



F. No. 375/01/B/2017-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.. 30.1.18

ORDER NO. 262/18 - Cus dated 29/12/2018 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-I/Air/888/2016 dated 02.12.2016 passed by the 1,2 Commissioner (Appeals), NCH, New Delhi.

APPLICANT : Mohd. Aszad, Muzaffarnagar.

RESPONDENT : Commissioner of Customs, New Delhi.

ORDER

A Revision Application No. F. No. 375/01/B/2017-R.A. dated 16.01.2017 has been filed by Mr. Mohd. Aszad of Muzaffarnagar, (hereinafter referred to as the applicant) against order-in-appeal No. CC(A)Cus/D-I/Air/888/2016 dated 06.12.2016, passed by the Commissioner of Customs (Appeals), NCH, New Delhi, whereby the applicant's appeal has been rejected. The Revision application is filed by the applicant mainly on the grounds that as he was an eligible passenger to import gold as per notification 12/2012-Cus dated 17/03/2012, the customs duty on the confiscated gold should be allowed to be charged on concessional rate as specified in the said notification and redemption fine and penalty may be reduced.

2. A personal hearing was held on 29.11.2018 which was availed by Sh. S.S. Arora, Advocate, who pleaded that they do not claim any concessional rate of duty as earlier prayed in their revision application and requested only for reduction of penalty on the ground that Section 114 AA is not applicable in their case and penalty had been imposed in that section also. But no one appeared for the respondent and no request for any other date of hearing is also made by them from which it is implied that they are not interested in availing personal hearing. Hence, this case is taken up for decision on the basis of revision application and other case records.

3. The government has examined the matter and has observed that there is no dispute regarding the fact that the applicant did not declare the import of gold before the customs authorities under Section 77 of the Customs Act, 1962 on his arrival at Delhi Airport which is one of the pre-conditions for eligibility for concessional rate of duty under

Notification No. 12/2012-Cus dated 17/03/2012. Hence, the applicant cannot be extended the benefit of aforesaid notification. As regards their other contention that Section 114 AA is not applicable to their case and penalty should be reduced accordingly, the government finds merit in this argument as Section 114 AA is applicable only where there is making or signing or using a false declaration or statement etc. which is not the case in the present proceeding. On the contrary, the departmental case is that the applicant is that the applicant did not declare the gold while he arrived at Delhi airport from Sharjah for which the penalty is attracted under Section 112 of the Customs Act only. Therefore, the penalty under Section 112 is only imposable in this case and accordingly the combined penalty of Rs. 1.75 lakhs imposed under Sections 112 and 114 AA is reduced to Rs. 1.5 lakhs as a penalty under Section 112 only.

4. Accordingly, the Order in Appeal is modified and the Revision Application is allowed to the above extent.

(R. P. Sharma)
27.12.18
(R. P. SHARMA)

ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA

Mohd. Aszad, S/o Mr. Wasim Ahmad,
Village Ratheri, PO Ratheri,
District Muzaffarnagar(UP)

ORDER NO. Cus dated 2018

Copy to:-

1. The Commissioner of Customs, NCH, New Delhi.
2. The Commissioner of Customs(Appeals), New Delhi.
3. Sh. S.S.Arora, Advocate, B-1/71, Safdarjung Enclave, New Delhi

ATTESTED

(Ashish Tiwari, AC)

*Received copy of the order
for self & party*

*Sh. S.S. Arora
21/12/18*