

SPEED POST



F.No. 375/36/B/2018-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... 8/2/21

Order No. 28 /21-Cus dated 03-02-2021 of the Government of India passed by Sh. Sandeep Prakash, 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.CC(A)Cus/D-I/Air/39/2018 dated 16.02.2018 passed by the Commissioner of Customs (Appeals), New Customs House, Near IGI Airport, Delhi-110037

Applicant : Mr. Imran Ibharim Shaikh

Respondent : Commissioner of Customs (Airport & General), New Delhi

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ORDER

A Revision Application No. 375/36/B/2018-RA dated 18.04.2018 has been filed by Mr. Imran Ibharim Shaikh, (hereinafter referred to as the applicant) against the Order-in-Appeal No. CC(A)Cus/D-I/Air/39/2018 dated 16.02.2018 passed by the Commissioner of Customs (Appeals), New Customs House, Near IGI Airport, Delhi-110037. Commissioner (Appeals), vide the above mentioned Order-in-Appeal has rejected the appeal as time barred observing that the applicant failed to file the appeal within the stipulated period of 60 days and also the condonable period of 30 days as per Section 128 of the Customs Act, 1962 .

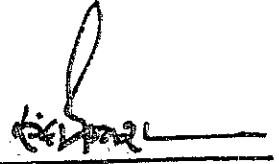
2. The brief facts of the case are that the applicant arrived on 09.09.2014 at IGI Airport from Dubai and was intercepted near the exit gate after he had crossed the Customs Green Channel. After search of his person and of his baggage one strip of solid metal wrapped with adhesive blue tape was recovered from his possession. Upon examination, the strip was found to be made of gold, weighing 700 grams and appraised at Rs.16,44,292/- by the Jewellery Appraiser at IGI airport. Additional Commissioner of Customs, IGI Airport, Terminal – 3, New Delhi, vide the Order-in-Original No. 05/Adj./2016 dated 11.04.2016, absolutely confiscated the gold strip and also imposed a penalty of Rs.3,30,000/- under Section 112 & 114AA of the Customs Act, 1962 on the applicant

3. The revision application has been filed canvassing that the gold is not a prohibited item and hence may be released on payment of redemption fine and penalty. As regard the delayed filing of appeal before the Commissioner (Appeals), it is stated that the appeal should not have been rejected on technical grounds of delay.

4. Personal hearing was granted on 07.01.2020, 24.01.2020, 20.01.2021 and 02.02.2021 .Sh. R.P. Bairwah, Superintendent, appeared on behalf of the department on 20.01.2021. He reiterated the order of the lower authorities and prayed that revision application filed by the applicant should be rejected. None appeared on behalf of the applicant on all the above mentioned dates and no request for further adjournment has been received. Hence, the case is being taken up for decision.

5. Government has examined the matter. It is observed that the Commissioner (Appeals) has rejected the appeal as time barred as the appeal was ostensibly not filed within the stipulated period of 60 days or further condonable period of 30 days, in terms of Section 128 of the Customs Act, 1962. Government observes that the appeal before the Commissioner (Appeals) can be filed within a period of sixty days or further extended period of 30 days i.e. maximum period (including condonable period) within which the appeal can be filed is 90 days. In the instant case, the appeal was filed after 101 days i.e. beyond the maximum period of 90 days, as permissible under Section 128 of the Customs Act, 1962. The Hon'ble Supreme Court has, in the case of Singh Enterprises vs. Commissioner of Central Excise {2008(221)ELT163(SC)} in respect of the identical provisions under the Central Excise Act, 1944, held that the appellate authority has no power to allow the appeal to be presented beyond the statutorily prescribed condonable period of 30 days. Therefore, the Government does not find any infirmity in the order of Commissioner (Appeals).

6. The revision application is rejected.



(Sandeep Prakash)

Additional Secretary to the Government of India

1. Mr. Imran Ibrahim Shaikh, Shirin Bhai Building, 1st floor, Room No. 16A, A trust Building, M.E.Sarang Marg, Mumbai – 400003

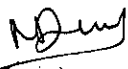
Order No. 28/21-Cus dated 03-02-2021

Copy to:

1. Commissioner of Customs (Airport & General), IGI Airport Terminal-3, New Delhi-110037
2. Commissioner of Customs (Appeals), New Custom House, Near IGI Airport, New Delhi
3. Additional Commissioner of Customs, IGI Airport, New Custom House, New Delhi
4. PA to AS(RA)
5. Guard File.

6. *Spare copy.*

ATTESTED



(Nirmala Devi)

Section Officer (Revision Application)