

REGISTERED  
SPEED POST

GOVERNMENT OF INDIA  
 MINISTRY OF FINANCE  
 (DEPARTMENT OF REVENUE)  
 8<sup>th</sup> Floor, World Trade Centre, Centre - I, Cuffe Parade,  
 Mumbai-400 005

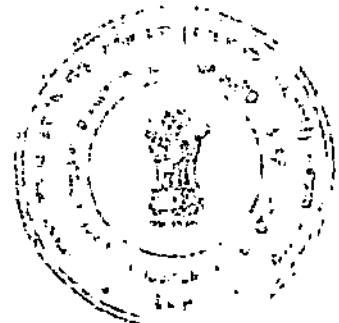
F. No. 371/18/B/17-RA/3280 Date of Issue 28.02.2020

ORDER NO. 37/2020-CUS (WZ)/ASRA/MUMBAI DATED 6/5/2020 OF THE  
 GOVERNMENT OF INDIA PASSED BY SHRI SEEMA ARORA, PRINCIPAL  
 COMMISSIONER & EX-OFFICIO ADDITIONAL SECRETARY TO THE  
 GOVERNMENT OF INDIA, UNDER SECTION 129DD OF THE CUSTOMS ACT,  
 1962.

Applicant : Smt.Rizwana Shabbir NasruddinMukadam

Respondent : Pr. Commissioner of Customs, CSI Airport, Mumbai

Subject : Revision Application filed, under Section 129DD of the  
 Customs Act, 1962 against the Order-in-Appeal No. MUM-  
 CUSTM-PAX-APP-568/16-17 dated 23.01.2017 passed by  
 the Commissioner of Customs (Appeals), Mumbai- III.



ORDER

This revision application has been filed by Smt. Rizwana Shabbir Nasruddin Mukadam(herein referred to as Applicant) against the order No. MUM-CUSTOM-PAX-APP-568/16-17 dated 23.01.2017 passed by the Commissioner of Customs (Appeals), Mumbai- III.

2. Briefly stated facts of the case are that the Officers of Customs intercepted Smt. Rizwana Shabbir Nasruddin Mukadama Tanzanian citizen at the C.S. International Airport, Mumbai on 06.05.2014. A personal search resulted in the recovery of eight crude gold kadas worn four each, on each of her arms. The gold totally was weighing 895gms and valued at Rs. 22,98,244/( Rupees Twenty two Lacs Ninety eight thousand Two hundred and Forty four ).

3. After due process of the law vide Order-In-Original No. ADC/ML/ADJN/37/2015-16 dated 13.05.2015 the Original Adjudicating Authority ordered absolute confiscation of the gold under Section 111 (d) (l) and (m) of the Customs Act, 1962 and imposed penalty of Rs. 2,00,000/- (Rupees Two lacs) under Section 112 (a) of the Customs Act,1962.

4. Aggrieved by this order the Applicant filed an appeal with the Commissioner of Customs (Appeals), The Commissioner (Appeals) vide his order No. MUM-CUSTOM-PAX-APP-568/16-17 dated 23.01.2017 allowed redemption of the gold on payment of redemption fine of Rs. 4,00,000/- ( Rupees Four Lacs) and upheld the penalty imposed and allowed the appeal of the Applicant.

5. Aggrieved with the above order the Applicant has filed this revision application alongwith an application for condonation of delay of 7.5 months in filing the Application interalia on the grounds that;

5.1 The Applicant is an NRI holding Tanzanian passport and OCI card and residing in Nairobi; She came to Mumbai in 2014 for her treatment; The present case was made on 06.05.2014; Thereafter when she came to India on 03.12.2015 she was refused entry into India by the immigration



authorities; The present Application has been filed through her husband Shri Shabbir Nasruddin Mukadam, who works in Daar -E- Salaam but presently in India; Shri Shabbir Nasruddin Mukadam had difficulty in finding a lawyer as he was not satisfied with the lawyers hired earlier and therefore the Application for filing an appeal against the impugned order could not be attended in time and as a result of which there is a delay of seven months.

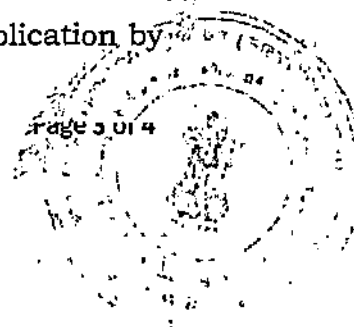
5.2 The Revision Applicants cited case laws in favour of his case and prayed for condoning the delay in filing this appeal.

6. In view of the above, personal hearings in the case were scheduled on 05.12.2019. Smt. Ashwani Kumar Prabhakar, Advocate pleaded that the applicant is a Tanzanian national, that the goods were re-exported as per O-i-A, That it was personal jewelry and prayed for setting aside the redemption fine and penalty.

#### FINDINGS AND ORDER

7. Before going into the merits of the case, the government observes that the Revision Application has been filed after a delay of seven months ie 234 days. The Applicant in his application for condonation of delay dated 22.11.2017 has submitted that she was not permitted to enter India by the immigration authorities when she arrived on 03.12.2015. The Applicant also avers that a proper advocate could not be found resulting in the delay. Government however notes that the husband of the Applicant is an Indian citizen and could have taken efforts to file the application earlier. The impugned gold has been released and re-exported as per the Order of the Appellate authority. Be that as it may, the Government observes that the law does not permit the Government to condone the delay beyond 90 days.

8. A similar issue has been decided by the Supreme Court in the case of Singh Enterprises v. Commissioner of Central Excise, Jamshedpur, (2008) 3 SCC 70 = 2008 (221) E.L.T. 163 (S.C.), wherein the Hon'ble Court has inter alia held that the period up to which the prayer for condonation can be accepted is statutorily provided, and there was no power to condone the delay after the expiry of the said period. The delay in filing the instant Revision Application by 234 days, therefore cannot be condoned on any grounds.



9. Government, further notes that the statutory requirement can be condoned only if there is such provision in the statute itself. Since there is no provision for condonation of delay beyond the statutory period. The revision Application therefore has to be treated as time barred. The Application for condonation of delay is therefore rejected and instant Revision Application is dismissed.

10. So, ordered.

( SEEMA ARORA )

Principal Commissioner & ex-officio  
Additional Secretary to Government of India

ORDER No. 37 /2020-CUS (WZ) /ASRA/MUMBAI

DATED 6/5/2020.  
2020

To,

1. Smt. Rizwana Shabbir Nasruddin Mukadam, C/o Shabbir Nasruddin Mukadam, Post-Mahapral, Tal Mandangad, Dist. Ratnagiri, Maharashtra.
2. The Principal Commissioner of Customs (Airport), Chatrapati Shivaji International Airport, Terminal -2, Mumbai.
3. M/s KPS Legal, 5<sup>th</sup> Floor, Hitkari house, 284, Bhagat Singh Road, Fort, Mumbai - 400 001.
4. Sr. P.S. to AS (RA), Mumbai.
5. Guard File.
6. Spare Copy.

**ATTESTED**

B. LOKANATHA REDDY  
Deputy Commissioner (R.A.)

