

REGISTERED

SPEED POST



F. No. 375/51/B/2015-R.A.  
GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(DEPARTMENT OF REVENUE)

14, HUDCO VISHALA BLDG., B WING  
6<sup>th</sup> FLOOR, BHIKAJI CAMA PLACE,  
NEW DELHI-110 066

Date of Issue.....

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ORDER NO ~~38/18~~ Cus dated ~~13-3-2018~~ 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/1173/2015 dated 04.09.2015 passed  
by Commissioner (Appeals), NCH, New Delhi.

APPLICANT : Mr. Mohd. Tanveer, New Delhi

RESPONDENT: Commissioner of Customs, IGI Airport, T- 3, New Delhi

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ORDER

A Revision Application No.375/51/B/2015-R.A. - Cus dated 15/1/2015 has been filed by Sh.Monammad Tanveer VPO-Raheri PS New Mandi, muzaffarnager,UP (hereinafter referred to as the applicant) against the Commissioner (Appeals)'s Order No. CC(A)/Cus/D-I/Air/1173/2015 dated 04/09/2015 who has upheld the Order of the Additional Commissioner of Customs, IGI Airport, New Delhi, ordering absolute confiscation of the gold weighing 699.84 grams of value of Rs 18,28,221/- and imposing a penalty of Rs. 1,85,000/- on the applicant.

2. A personal hearing was held on 05/03/2018 and it was attended by Shri S. S. Arora, Advocate, on behalf of the applicant and reiterated the grounds of revision already made in their application. However, no one appeared for the respondent
3. From the revision application it is evident that the applicant does not dispute the Commissioner (Appeals)'s order regarding confiscation of the gold which was brought by him from Riyadh in violation of Customs Act and Foreign Trade Policy (FTP) 2009-14 and his request is limited to the point that he should be allowed to redeem the goods on payment of duty, redemption fine and personal penalty may be reduced etc.
4. On examination of the Revision Application, the Commissioner (Appeals)'s order and the respondent's written submissions in the matter, it is observed that the Commissioner (Appeals)'s has upheld the absolute confiscation of gold on the premise that the goods are prohibited goods and liable for absolute confiscation for importation purpose. However, he has not cited any legal provision under which the import of gold jewellery is expressly prohibited. Instead he has observed that any goods imported in the

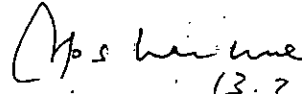
baggage beyond what is permitted in the Baggage Rules, 1998 are prohibited goods as defined under section 2(33) of the Act. But the Government does not agree with his views as prohibition of the goods has to be notified by the Central Government under section 11 of the Custom Act or any other law and the goods cannot be called as prohibited goods simply because the goods are not covered in the term "baggage" or are brought by any person in violation of any legal provision or without payment of custom duty. Any goods imported without payment of duty or in violation of any provision of the Customs Act is certainly liable for confiscation under Section 111 of the customs Act, but it cannot be accepted that all goods liable for confiscation are prohibited goods. While there is no dispute in this case that the goods brought by applicant from Riyadh are liable for confiscation because he did not follow proper procedure for import thereof in

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India and attempted to import the goods without payment of custom duties, it is beyond any doubt that the gold are not prohibited goods under Customs Act or any other law. Various Courts, Tribunal, Commissioner of Customs (Appeals), Delhi, Chandigarh and J.S (RA) have held in large number of orders that gold is not prohibited item. Therefore the Commissioner (Appeals) has taken a different stand by upholding absolute confiscation of gold in this case.

5. Since the goods are not proved to be prohibited goods, the lower authorities were required to give an option to the applicant to redeem the confiscated gold under Section 125 of the Customs Act, 1962 and because it was not given earlier, the Government now allow the applicant to redeem the confiscated goods within 30 days on payment of applicable customs duty, redemption fine of Rs.7,30,000/- and penalty of Rs.1,50,000/-

6. Accordingly, the revision application filed by Mr. Mohammad Tanveer is allowed and the commissioner (Appeals)'s order is modified to the extent as discussed above.

  
(R. P. SHARMA) 13.3.18

ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA

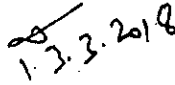
Mr. Mohd. Tanveer,  
VPO – Reheri, New Mandi,  
Muzaffarnagar, UP – 251 001

GOI ORDER NO 38/18 Cus dated 13-3-2018.

Copy to:-

1. The Commissioner of Customs, IGI Airport, Terminal – 3, New Delhi – 110 037.
2. The Commissioner of Customs (Appeals), New Customs House, Near IGI Airport, New Delhi – 110037.
3. The Additional Commissioner of Customs, IGI Airport, New Delhi 110037.
4. M/s. S.S. Arora & Associates, B1/71, Safdarjung Enclave, New Delhi-110029
5. P.S. to A.S.
- ✓ 6. Guard File
7. Spare Copy

ATTESTED

  
13.3.2018

(Debjit Banerjee)  
Sr. Technical Officer