

REGISTERED
SPEED POST



F.No. 375/66/B/15-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... 15/3/18

Order No. 39/18-Cus dated 13-3-2018 of the Government of India passed by Shri R.P.Sharma, Principal Commissioner & 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/ICD/Air-1204/2015 dated 28.9.2015 passed by the Commissioner of Customs (Appeals), New Custom House, New Delhi

Applicant : Mr. Rajesh Kumar, Chandigarh

Respondent : Commissioner of Customs, New Custom House, New Delhi

ORDER

A Revision Application No.375/66/B/15-RA dated 22.12.15 is filed by Mr. Rajesh Kumar, resident of Chandigarh (hereinafter referred to as the applicant) against the Order-In-Appeal No.CC(A)Cus/ICD/Air-1204/2015 dated 28.9.2015, passed by the Commissioner of Customs (Appeals), New Delhi, whereby the applicant has been allowed to redeem the confiscated gold and Indian currency for the payment of redemption fine of Rs.2.00 lakhs and Rs.20,000/- respectively and on payment of penalty of Rs.2.00 lakhs. -

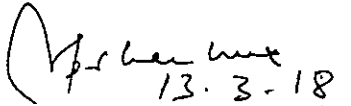
2. The brief facts involved in the case are that the applicant arrived from Korea via Bangkok on 3.11.12 and brought miscellaneous goods like cameras, mobile phones, LED T.V., digital weighing scale etc. of the value of Rs.966000/-, 2 cut pieces of gold weighing 190 gms. valued at Rs.560260 and Indian currency of Rs.90135/-. While the adjudicating authority allowed redemption of confiscated miscellaneous goods on payment of fine of Rs.1.5 lakhs and fine of Rs.2.00 lakhs, the gold pieces and Indian currency were absolutely confiscated. The appeal filed before the Commissioner (Appeals) by the applicant is partly allowed under aforesaid Order-in-Appeal whereby absolutely confiscated gold and Indian currency have been allowed to be redeemed on payment of above mentioned fine.

3. A personal hearing was held on 12.3.18 and it was availed by Shri S.S.Arora, Advocate and Shri Sanjay Kumar, ACO, on behalf of the applicant and the respondent respectively. While Shri Arora maintained that the revision application should be allowed, the ACO pleaded that OIA is absolutely correct.

4. On examination of the revision application, it is evident that the applicant has not disputed that all goods, including gold pieces and Indian currency, were brought by the applicant in violation of Section 77 and 79 of the Customs Act and as a result all goods are liable for confiscation. Accordingly, the applicant has not questioned the confiscation

of the goods and OIA allowing redemption of confiscated gold and INRs on payment of fine. His request in the revision application is only that the redemption fine and penalty is on the higher side. The reduction in redemption fine is sought mainly on the ground that the applicant has not opted for redemption of confiscated miscellaneous goods. But this argument is not found tenable as non redemption of miscellaneous goods by the applicant has no nexus with the amount of fine for redeeming gold and INRs. The issue regarding confiscation and redemption of miscellaneous goods is not agitated by the applicant before the Government in the present application and the choice of non redemption of these miscellaneous goods has been exercised by the applicant only. As regards redemption fine of Rs.2.00 lakhs in respect of gold pieces, the Government has found that it is approximately 35% of the value of the confiscated gold and the same is found to be reasonable as redemption fine from 35% to 40% of the value of the gold is generally imposed by the Departmental authorities in such cases. Redemption fine of Rs.20000/- in respect of confiscated Indian currency of Rs.90135/- is already more than reasonable and even the applicant has not agitated much on this point. Considering these facts, the Government does not find any fault in the Order of the Commissioner (Appeals) and the revision application is not found maintainable.

5. Accordingly, the revision application is rejected.



(R.P.Sharma)

Additional Secretary to the Government of India

Mr. Rajesh Kumar
R/o 2153, Sector 44-C,
Chandigarh, Punjab-160047

Order No. 39 /18-Cus dated 13-3-2018

Copy to:

1. Commissioner of Customs, New Custom House, New Delhi
2. Commissioner of Customs (Appeals), New Custom House, Near IGI Airport, New Delhi
3. Additional Commissioner of Customs (Preventive), New Custom House, Near IGI Airport, New Delhi-110037
4. Assistant Commissioner of Customs (Preventive), New Custom House, Near IGI Airport, New Delhi-110037
5. PA to AS(RA)
- ✓ 6. Guard File.
7. Spare Copy

ATTESTED

13.3.2018

(Debjit Banerjee)
STO (Revision Application)