

REGISTERED

SPEED POST



F. No. 372/24/B/2018-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... 6/11/19

ORDER NO. 40/19 - Cus dated 6-11-2019 OF THE GOVERNMENT OF INDIA, PASSED BY MS. MALLIKA ARYA, 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. 22/CUS(A)/GHY/17 dated 18.12.2017, passed by the Commissioner of Customs (Appeals), Guwahati.

APPLICANT : Shri Dipak Kumar, Gorakhpur.

RESPONDENT : Commissioner of Customs, Guwahati.

ORDER

A Revision Application No. F. No. 372/24/B/2018-R.A. dated 13.04.2018 has been filed by Mr. Dipak Kumar, Gorakhpur (hereinafter referred to as the applicant) against order-in-appeal No 22/CUS(A)/GHY/17 dated 18.12.2017, passed by the Commissioner of Customs (Appeals), Guwahati wherein the applicant's appeal has been allowed partially.

2. The revision application has been filed mainly on the grounds that value of the seized goods as claimed by the respondent is excessive and may be considered for re-valuation for the purpose of duty, fine and penalty. He has also requested for free baggage allowance on non-Commercial items (6 pcs each of ladies jackets and ladies back purses) in terms of CBEC Circular No. 64/94-Cus.VI dated 17.12.96. The applicant has filed an application for condonation of delay of 14 days in filing the revision application.

3. A personal hearing was granted on 24.10.2019. No one appeared on the said date. However, a letter dated 18.10.2019 has been received from the applicant's consultant who has requested that the case may be decided on the basis of available records. Since no one appeared for the respondent and no request has been received for adjournment, the matter is being taken up for disposal on the basis of facts on record.

4. The Government has examined the matter. Section 129DD (2) of Customs Act, 1962 reads as under:-

"(2) An application under sub-section (1) shall be made within three months from the date of the communication to the applicant of the order against which the application is being made

Provided that the Central Government may, if it is satisfied that the applicant was prevented by sufficient cause from presenting the application within the aforesaid period of three months, allow it to be presented within a further period of three months."

In this case, the applicant has stated that the Order-in-Appeal was received by him on 21.2.2018 whereas the respondent has stated that the order-in-appeal was delivered on 26.12.2017. There is no evidence corroborating the statement of the respondent. Revision application was filed on 13.04.2018. There is a delay of 14 days after initial period of 90 days in filing the revision application. Since the applicant has shown sufficient cause for not having filed the revision application in time on account of delay in receipt of the order-in-appeal, the Government condones the delay and examines the case on merits.

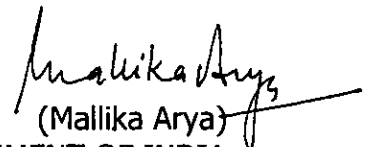
5. The applicant has submitted that the value of the goods brought by him is excessive and needs further reduction from what the Commissioner (Appeals) has

allowed. It is observed that Commissioner (Appeals) has granted considerable reduction in value of the impugned goods and has reduced the redemption fine and penalty imposed by the original adjudicating authority. The applicant has not put forth any additional evidence substantiating his claim that the value of the impugned goods should be reduced further.

6. Commissioner (Appeals) has already taken a lenient view in reducing redemption fine and penalty wherein redemption fine has been reduced from Rs 16,000/- to Rs. 7,000/- against value of Rs. 87,650/- under Section 125 of Customs Act, 1962. The penalty has been reduced from Rs. 10,000/- to Rs. 5000/- under Section 112 of Customs Act, 1962. The government finds the redemption fine and penalty imposed by Commissioner (Appeals) are reasonable and merit no interference.

7. Accepting the request of the applicant for allowing baggage allowance on 6 pieces of Ladies Jackets and 6 pieces of Ladies Back Purses valued at Rs. 9600/- in view of the fact that these are not in commercial quantity, the Government allows baggage allowance to the applicant on these items in terms of CBIC Circular No. 64/94-CUS. VI dated 17.12.96.

8. Accordingly the revision application is partially allowed in the above terms.


(Mallika Arya)

ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA


Mr. Dipak Kumar,
S/o Beni Madhav,
Village-Bankata, P.O. Bheusa,
P.S. Sikarganj, Gorakhpur-273211.UP.

ORDER NO. 40/19-Cus dated 6/11-2019

Copy to:-

1. Commissioner of Customs (Airport & Admin), Guwahati Customs Division, Nilamoni Phukhan Path, Christian Basti, Guwahati-781005.
2. The Commissioner of Customs (Appeals), Guwahati Customs Division, Nilamoni Phukhan Path, Christian Basti, Guwahati-781005
3. Guard File

ATTESTED


(Ishwer Chander)

Superintendent (Revision Application)