

REGISTERED
SPEED POST



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

F.No. 373/151/B/2019 / 7932

Date of Issue 03.01.23

ORDER NO. 431/2022-CUS (WZ) / ASRA / MUMBAI/ DATED 29.12.2022 OF THE GOVERNMENT OF INDIA PASSED BY SHRI SHRAWAN KUMAR, PRINCIPAL COMMISSIONER & EX-OFFICIO ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA, UNDER SECTION 129DD OF THE CUSTOMS ACT, 1962.

Applicant : Shri Moideen

Respondent : The Commissioner of Customs, Airport Special Cargo,
Mumbai.

Subject : Revision Applications filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal No. MUM-CUSTM-APSC-APP-1258/18-19 dated 29.03.2019 passed by the Commissioner of Customs (Appeals), Mumbai -III.

ORDER

This Revision Application has been filed by Shri Moideen (hereinafter referred to as "Applicant") against the Order-in-Appeal No. MUM-CUSTM-APSC-APP-1258/18-19 dated 29.03.2019 passed by the Commissioner of Customs (Appeals), Mumbai -III.

2. The issue briefly is, the officers of the Special Investigation and Intelligence Branch, Airport Special Cargo Commissionerate detained and examined a courier package during the course of screening covered vide AWB No.SMART8055960 manifested by M/s. Poonam Courier Pvt. Ltd. under Bill of Entry Thoka No.17822 dated 29.06.2015. The said parcel was in the name of applicant Mr. Moideen and the consignor of the said package was shown as Mr. Mohammed Illiyas of UAE. The said package was declared to weigh 4 kg and the content was declared as "Wheel Hub (Sample only not for sale)". During detailed examination of package the custom officers recovered 4 gold bars of 10 tolas each and one gold bar 50 gms having foreign marking concealed inside the round shaped casting ring of said aluminum Wheel hub.

4. The investigations conducted in the matter resulted in a show cause notice by investigative agencies. After due process of the law the original adjudicating authority vide its order no. ADC/SA/APSC/38/16-17 dated 29.03.2019. The recovered 5 gold bars collectively weighing 516.4 gms valued at Rs.12,83,344/- were confiscated absolutely under section 111 (d), (i) and (m) of the Customs Act, 1962 and personal penalty of Rs.2,00,000/- was imposed on the applicant under section 112 (a) & (b) of the Customs Act, 1962. The seized court exhibits, i.e. wheel hub and the package made of cardboard having no commercial value were also confiscated absolutely under section 119 of the Customs Act, 1962.

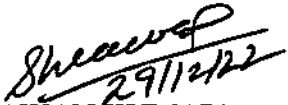
5. Aggrieved by this order the applicant filed an appeal with the Commissioner of Customs (Appeals).The Commissioner (Appeals) vide his order No. MUM-CUSTM-APSC-APP-1258/2018-19 dated 29.03.2019 rejected the applicant's appeal.

6. Aggrieved with the above orders the Applicant has filed this revision application pleading that they were falsely implicated in the case of smuggling. The applicant submitted that he was not aware that the parcel contained illegal goods and hence no offence is made out against him. The applicant prays to set aside the impugned order and reduce the redemption fine and personal penalty.

7. The Government has examined the matter at the outset it is observed that the case pertains to goods under import through courier. As per first proviso to Section 129A(1) read with Section 129DD of Customs Act, 1962, a revision application can be filed before the Government against the order-in-appeal if it relates to the issue of baggage, drawback of duty and short landing of the goods. The dispute is regarding import of goods by courier. Therefore, the Government does not have jurisdiction to deal with these Revision Applications.

8. In view of above, Government is of opinion that the issue involved in this case does not fall within the jurisdiction of this authority and hence, the issue is required to be agitated before proper legal forum, i.e. Tribunal if the Applicant deems fit to do so. The revision application is thus not maintainable before this authority for want of jurisdiction in terms of Section 129A read with Section 129DD of the Customs Act, 1962.

9. The revision application thus stands rejected as being non-maintainable for lack of jurisdiction.


(SHRAWAN KUMAR)
Principal Commissioner & ex-officio
Additional Secretary to Government of India

ORDER No. ⁴³¹ /2022-CUS (WZ) /ASRA/

DATED ²⁹ 12.2022

To,

1. Mr. Moideen, C/o Shri P. Kamalamalar & S. Kameshwaran, Advocates, No.10, Sunkarama Street, Second Floor, Chennai - 600001.
2. The Commissioner of Customs, Airport Special Cargo, Avas Corporate Point, Marol Naka, Andheri Kurla Road, Andheri(East), Mumbai - 400 059.

Copy to:

3. Shri P. Kamalamalar & S. Kameshwaran, Advocates, No.10, Sunkarama Street, Second Floor, Chennai - 600001.
4. Sr. P.S. to AS (RA), Mumbai.
5. Guard File.
6. Notice Board.