

REGISTERED  
SPEED POST



F.No. 375/67/B/15-RA  
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... 4/4/18

Order No. 51/18-Cus dated 2-4-2018 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/D-I/Air-1192/2015 dated 11.9.2015, passed by the Commissioner of Customs (Appeals), New Delhi

Applicant : Mr. Vijay Goel, New Delhi

Respondent : The Commissioner of Customs, New Delhi

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**ORDER**

A Revision Application No. 375/67/B/15-RA dated 22.12.15 is filed by Mr. Vijay Goel, resident of New Delhi (hereinafter referred to as the applicant) against the Order-in-Appeal No.CC(A)Cus/D-I/Air-1192/2015 dated 11.9.2015, passed by the Commissioner of Customs (Appeals), New Delhi, whereby the penalty of Rs.10.00 lakh and Rs.1.00 lakh on the applicant under Section 112(b) and under Section 117 of the Customs Act 1962 imposed by the Additional Commissioner of Customs is upheld.

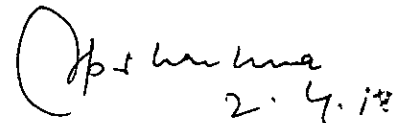
2. The brief facts of the case are that 74250 pieces of memory cards of the value of Rs.13342725/- were recovered from 2 passengers Mr. Amrit Pal Singh and Mr. Kamal Chadha while they arrived at Delhi Airport on 5.5.12 from Hong Kong. In their statements recorded on 6.5.12 they stated that their visit to Hong Kong was sponsored by the applicant and Mr. Rahul Arora. Legal proceedings were initiated against the above named two passengers, the applicant and in the adjudication Order issued by the Additional Commissioner of Custom personal penalties were imposed on the applicant. However, no proceeding was initiated against Mr. Rahul Arora who was also named by the two accused as one of the two sponsors. The applicant's appeal filed before the Commissioner (Appeals) was also rejected and the Additional Commissioner's OIO imposing penalties under Section 112(b) and 117 is upheld.

3. The revision application has been filed mainly on the grounds that the applicant has been penalised solely on the basis of the statement of the two co-noticees who had later on retracted their statements; that he had denied any association with them from the very beginning; that the passengers had owned up the confiscated goods and even Mr. Rahul Arora who was similarly implicated by the 2 passengers in this case was never made a noticee in this matter.

4. A personal hearing was held in this case on 13.3.18 and it was availed by the applicant in person and reiterated the above narrated grounds of revision. However, no one appeared for the respondent and no request for any other date is also made from which it is implied that they are not interested in availing the personal hearing.

5. On examination of the revision application in the light of Orders passed by the lower authorities, the Government observes that the above mentioned grounds of revision that the applicant is penalised merely on the basis of refracted statements of the two co-noticees, the seized goods were already owned up by the two co-noticees and Mr. Rahul Arora similarly implicated along with the applicant in this case is not made a noticee in this case are not denied even by the Commissioner (Appeals) in his Order. Thus it is an accepted fact that there is no direct evidence regarding involvement of the applicant in the smuggling of the confiscated goods and it is not explained in the OIA as to how the applicant was involved in this case. Evidently the Commissioner (Appeals) is not sure about any concrete role played by the applicant in regard to smuggling of the goods and he has merely surmised in the Order that strings of the two co-noticees were controlled in all likelihood by the applicant only. At least the two co-noticees had initially named the applicant as their sponsor, but after they retracted their statements even that basis has disappeared and above all there is no corroborative evidence regarding involvement of the applicant. Thus, the entire Order passed by the Commissioner (Appeals) in respect of the applicant is based on assumption and presumption. Further, non-initiation of any proceeding against Mr. Rahul Arora, who was also named by the co-noticees as one of the two sponsors also amounts to acceptance by the Revenue that there is no case against the applicant also. Considering these facts, the Government agrees with the applicant that his case is not covered under Section 112(b) and 117 of the Customs Act.

5. Accordingly, the revision application is allowed and the Commissioner (Appeals)'s Order is set aside.



(R.P.Sharma)

Additional Secretary to the Government of India

Mr. Vijay Goel.  
BU-108, Pitam Pura  
New Delhi-110034

Order No. 51/18-Cus dated 2-4-2018

Copy to:

1. Commissioner of Customs, IGI Airport Terminal-3, New Delhi-110037
2. Commissioner of Customs (Appeals), New Custom House, New Delhi-37
3. PA to AS(RA)
4. Guard File.
5. Spare Copy

ATTESTED

*2.4.2018*

(Debjit Banerjee)

STO (REVISION APPLICATION)