

SPEED POST



2020-RA  
F.No. 375/56/B/2018-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: 5/3/21

Order No. 51/21-Cus dated 04-03-2021 of the Government of India passed by Sh. Sandeep Prakash, 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. JNK-EXCUS-APP-57/20-21 DATED 30.07.2020, passed by the Commissioner of CGST, Central Excise and Customs (Appeals), Jammu

Applicant : Smt. Shakila Begum

Respondent : Commissioner of Custom (Preventive), Amritsar

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**ORDER**

A Revision Application No. 375/56/B/2020-RA dated 25.09.2020 has been filed by Smt. Shakila Begum, (hereinafter referred to as the applicant) against the Order-in-Appeal No. JNK-EXCUS-APP-57/20-21 dated 30.07.2020, passed by the Commissioner of CGST, Central Excise & Customs (Appeals), Jammu. Commissioner (Appeals), vide the above mentioned Order-in-Appeal, has rejected the appeal as time barred observing that the appeal was filed beyond the stipulated period of sixty days and also the condonable period of 30 days as per Section 128 of the Customs Act, 1962 .

2. The brief facts of the case are that the applicant arrived on 22.04.2019 at LCS Attari Rail, Amritsar, from Pakistan. Upon search of her person and of her baggage, unstitched ladies suits, soap and Cream of assorted quantities, were recovered from her possession. As the goods carried by the applicant were in commercial quantity, these were seized by the Customs. Adjudicating authority, vide Order-in-Original dated 31.07.2019, absolutely confiscated the seized goods valued at Rs. 1,35,000/- . Besides, a penalty of Rs. 10,000/- was also imposed on the applicant. Aggrieved, the applicant filed an appeal before the Commissioner (Appeals) which was rejected as time barred.

3. The revision application has been filed canvassing that the applicant is an illiterate person and also not keeping well due to her medical condition. Therefore

delay in filing appeal before the Commissioner (Appeals) may be condoned. Submissions have been made on merits as well.

4. Personal hearing was granted on 04.03.2021. Sh. R.K. Wadhawan, Advocate, and Smt. Shakila Begum (Applicant) attended the hearing. Sh. Wadhwan stated that the OIO was received by them on 15.11.2019 and the delay in filing appeal was due to postal delays. He accordingly requested that the delay be condoned and the case may be decided in their favour on merits. None appeared on behalf of the respondent nor any request for further adjournment has been made. Therefore, the case is taken up for disposal as per records.

5. Government has examined the matter. Government observes that, in terms of Section 128 of the Customs Act, 1962, the appeal before the Commissioner (Appeals) can be filed within a period of sixty days or further extended period of thirty days i.e. maximum period (including condonable period) within which the appeal can be filed is 90 days. In the instant case, even after considering that the OIO dated 31.07.2019 was received by the applicant only on 15.11.2019, as claimed by her, the appeal was filed after 94 days i.e. beyond the maximum period of 90 days, as permissible under Section 128 of the Customs Act, 1962. The Hon'ble Supreme Court has, in the case of Singh Enterprises vs. Commissioner of Central Excise {2008(221)ELT163(SC)}, in respect of the identical provisions under the Central Excise Act, 1944, held that the appellate authority has no power to allow the appeal to be presented beyond the statutorily prescribed condonable period of 30

days. Therefore, the Government does not find any infirmity in the order of Commissioner (Appeals).

6. The revision application is rejected.



(Sandeep Prakash)

Additional Secretary to the Government of India

Smt. Shakila Begum,  
H.No. 689, Sarai Mian Delhi gate,  
Near Mamta Wale Police Station,  
Delhi Gate, Aligarh,  
Uttar Pradesh

Order No. 51/21-Cus dated 04-03-2021

Copy to:

1. The Commissioner of Customs, Preventive, Customs House, Central Revenue Building, The Mall, Amritsar – 143001, Punjab
2. The Commissioner of CGST, Central Excise and Customs (Appeals), 32-OB, Rail Head complex, Jammu
3. PA to AS(RA)
4. Guard File.

*5 Spare Copy.*

ATTESTED

*Nirmala Devi*  
05/03/2021  
(Nirmala Devi)  
S.O (R. A.)