

REGISTERED
SPEED POST



F.No. 375/61/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 3/4/18

Order No. 54/18-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 /1934/2015 dated 07.10.2015 passed by the Commissioner of Customs (Appeals), IGI Airport, New Delhi

Applicant : Mr. Sandeep Singh, Jalandhar (Punjab)

Respondent : Commissioner of Custom, New Delhi

ORDER

A Revision Application No.375/61/B/15-R.A. Cx dated 26.11.2015 is filed by Mr. Sandeep Singh, Jalandhar, Punjab (hereinafter referred to as the applicant) against the Order-In-Appeal No.CC(A)Cus/1934/2015 dated 07.10.2015, whereby the Commissioner of Customs (Appeals), Delhi, has modified the order of the Additional Commissioner and allowed redemption of the absolutely confiscated gold weighing 604 grams of the value of Rs.16,59,716/- on payment of customs duty, redemption fine of Rs.5,95,000/- and penalty of Rs.4,00,000/- imposed by the Additional Commissioner in the order-in-original.

2. The brief facts of the case are that Mr. Sandeep Singh, on arrival from Bangkok, was intercepted at the green channel of IGI Airport on 27.03.2014 and two white coated gold karas worn by him in his wrists were recovered from him. Mr Singh admitted that the said gold items were purchased by him in Bangkok to earn profit on the same. The Additional Commissioner of Customs, vide his order-in-original dated 07.01.2015, confiscated the gold items absolutely and imposed penalty of Rs.4,00,000/-. However, on an appeal of the applicant, the Commissioner (Appeals) has modified the order of the Additional Commissioner to the extent as mentioned above.

3. The revision application has been filed mainly on the grounds that due to heavy fine and penalty, it is almost impossible for the applicant to redeem the gold and, therefore, he may be permitted to re-export the gold.

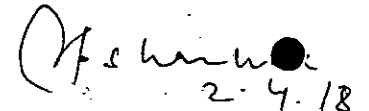
4. Personal hearing was fixed on 13.3.18 in this case and Smt. Sangita Bhayana, Advocate, appeared on behalf of the applicant and she reiterated the grounds of revision already pleaded in the revision application. However, no one appeared from the respondent side.

5. On examination of all the relevant case records, the Commissioner (Appeals)'s order and the revision application, the Government does not have any doubt that the gold items were brought by the applicant with malicious intention to evade custom duties and, therefore, these gold items are undisputedly liable for

confiscation as held by the Additional Commissioner of Customs in his Order. Confiscation of the gold is upheld by the Commissioner (Appeals) also with the only difference that redemption of the confiscated goods has been allowed on payment of custom duty, fine and penalty. The Government agrees with the Order-in-Appeal as the gold is not prohibited goods and, therefore, the same is redeemable under Section 125 of the customs Act. Regarding the applicant's prayer to allow re-export of gold, the government finds that under Section 80 re-export of the imported goods can be permitted only on the request of the passenger while he or she is returning from India to the foreign country and thereby it is explicit that returning of the PAX to the foreign country after a short visit to India as a tourist or otherwise is a crucial condition for re-export of such goods. But in the instant case, no such case has been made out that the applicant returned to Thailand as a citizen or for long term job over there. Instead, the applicant is a permanent resident in Jalandhar and he is a citizen of India. Therefore, there is no logic for re-export of the confiscated gold

— except that he wants to escape from the payment of custom duties which was the — sole motive even earlier also while he attempted to smuggle the gold. Since he was caught and could not succeed evading duty, he has now requested to re-export the gold for the same purpose of escaping from payment of customs duties. Thus his ultimate purpose behind the above request is to evade custom duty only which can not be permitted in the fact and circumstances of this case. Moreover, no such request was made by the applicant in his appeal before the Commissioner (Appeal) as the Order-in-Appeal does not mention anything about this and same cannot be entertained at this stage as the revisionary proceeding is restricted to the merit of the Order-in-Appeal on the basis of facts and legal arguments placed before the commissioner (Appeals) only. The contention of the applicant that heavy redemption fine and penalty have been imposed is also not found tenable as no convincing reason to support this argument has been provided by the applicant, except saying that the redemption of the goods will not be economically viable for him.

6. Accordingly, revision application is rejected.


(R.P.Sharma)
2-4-18

Additional Secretary to the Government of India

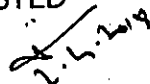
Shri Sandeep Singh,
R/o 80/7-8 Bhargo Nagar, P.O. bhargo Nagar
Jalandhar, Punjab

Order No. 56/18-Cus dated 2-4-2018

Copy to:

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

ATTESTED



(Debjit Banerjee)
STO (Revision Application)