

REGISTERED
SPEED POST



F.No. 375/68/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. 56/18-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/2416/2015 dated 23.11.2015 passed by the Commissioner of Customs (Appeals), IGI Airport, New Delhi

Applicant : Mr. Rachhana Rao, Deoria, (UP)

Respondent : Commissioner of Custom, New

ORDER

A Revision Application No.375/68/B/15-R.A.Cx dated 02.12.2015 is filed by Mr. Rachhana Rao, Deoria, (UP), (hereinafter referred to as the applicant) against the Order-In-Appeal No.CC(A)Cus/2416/2015 dated 23.11.2015, passed by the Commissioner of Customs (Appeals), New Delhi, whereby the Commissioner (Appeals) has upheld the order of the Additional Commissioner allowing redemption of confiscated gold, weighing 380 grams of the value of Rs. 9,61,987/- on payment of customs duty, redemption fine of Rs. 3,00,000/- and penalty of Rs. 1,50,000/-.

2. The brief facts of the case are that Mr. Rachhana Rao was intercepted at the green channel of IGI Airport on 30.01.2014 while he arrived from Bangkok and one gold chain and one gold kara of the above mentioned value was recovered from him. He admitted that the said gold items were purchased by him in Bangkok and the same belonged to him. The Additional Commissioner of Customs, vide his order dated 22/05/2015, confiscated the gold items and gave an option to redeem the confiscated goods on payment of customs duty, redemption fine of Rs. 3,00,000/- and personal penalty of Rs.1,50,000/-. The Commissioner (Appeals) has also upheld the Order- in- Original and rejected the appeal of the applicant.

3. The revision application has been filed by the applicant mainly on the grounds that the applicant, a Thai passport holder, is permanently settled in Thailand, and he is not able to pay the heavy redemption fine and penalty in addition to custom duty. Therefore he has requested to allow him to re-export the gold to Thailand.

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

5. The Government has examined the matter and it is observed that the applicant has not disputed the order of the Commissioner Appeal to the extent of upholding confiscation of gold and revision application is filed only for the reason that the fine and penalty are excessive for the applicant who is a foreign national of

Indian origin. Therefore, permission to re-export gold is solicited. The Government finds that the applicant had requested the Commissioner (Appeals) also in his appeal to allow him to re-export the goods on the basis of above stated facts, but the Commissioner (Appeals) has not dealt with this request and has remained silent on this point. Since the applicant has again made this request, the Government finds that it is a deserving case for allowing re-export of goods under Section 80 of the Customs Act which provides that the detained imported goods can be re-exported at the request of the passenger where he/she is returning from India to foreign country. Thus, apart from declaration of the imported goods at the time of arrival of passenger, returning of the passenger 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. While it is true the applicant had not declared the gold kara and gold chain in writing at the time of his arrival at Delhi airport, it cannot be denied that he was wearing the same on his body and were visible. However, the crucial condition that he returned to Thailand after a short visit to India where he is settled permanently abroad is fulfilled in this case. Moreover, such non-declarations by foreigners have been condoned in past by the custom authorities in several cases. Three examples of such re-exports of the gold items in respect of Shri Taevin Chawla, Shri Suthip Monga and Shri Santisuk Sachdeva have been cited in the revision application itself along with the relevant documents and these have not been questioned by the respondent. Considering these facts, the Government finds that the applicant is also eligible for re-exporting the confiscated goods on payment of fine and penalty ordered by the Additional Commissioner and upheld by the Commissioner (Appeals)

6. Accordingly, the revision application is allowed and Order-In-Appeal is modified in terms of above discussion.

(R.P. Sharma)
2.4.18

(R.P.Sharma)
Additional Secretary to the Government of India

Sh. Rachhana Rao
S/O Jai narain Rao
R/O Village Nagwakhan, Distt. Deoria, U.P.

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

A
2.4.2018

(Debjit Banerjee)
STO (Revision Application)