

REGISTERED
SPEED POST



F. No. 375/60/B/2015-R.A.
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... 10/4/18

dc

ORDER NO. 60/18-Cus dated 9-4-2018 OF THE GOVERNMENT OF INDIA, PASSED BY SHRI R. P. SHARMA, ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA, UNDER SECTION 129DD OF THE CUSTOMS ACT, 1962.

SUBJECT : Revision Application filed, under section 129DD of the Customs Act, 1962 against the Order-in-Appeal No. CC(A)Cus/ICD/Air-1169/2015 dated 28.08.2018 passed by Commissioner of Customs (Appeals), New Customs House, New Delhi

APPLICANT : Mr. Abdul Sattar, Muzaffar Nagar

RESPONDENT: Commissioner of Customs, New Delhi

ORDER

A Revision Application No. 375/60/B/2015-R.A. dated 28.08.2015 has been filed by Mr. Abdul Sattar, a resident of Muzaffar Nagar (hereinafter referred to as the applicant) against the Commissioner (Appeals)'s Order No. CC(A)Cus/ICD/Air-1169/2015 dated 28.08.2018, whereby the order of the Additional Commissioner of Customs, IGI Airport, New Delhi, confiscating the gold weighing 755.50 grams of the value of Rs.19,64,300/- has been upheld.

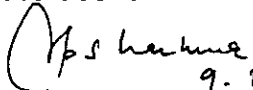
2. A personal hearing was held in this case on 12.03.2018 and Sh. S.S. Arora, Advocate, appeared on behalf of the applicant. Sh. Arora reiterated the grounds of revision, already pleaded in their application. However, Shri Sanjay Kumar, Air Custom Officer, appearing on behalf of respondent opposed it on the plea that the Order-In-Appeal is correct

3. From the revision application it is evident that the applicant does not dispute the Commissioner (Appeals)'s order regarding confiscation of the gold which were brought by him from Dubai in violation of Customs Act and Foreign Trade Policy (FTP), 2009-14 and his request is limited to the point that he should be allowed to redeem the goods on payment of duty, redemption fine and penalty etc.

4. On examination of the Revision Application and the Commissioner (Appeals)'s order it is observed that the Commissioner (Appeals) has upheld the Order-In-Original for absolute confiscation of gold on the premise that the gold in form of 1097 gold stapler pins, weighing 755.50 grams of the value of Rs. 19,64,300/-, were found concealed by the applicant in an unusual manner by converting the gold in stapler pins coated with silver grey colour and by punching them on three cardboard boxes. This charge is not denied by the applicant also and the Order-In-Appeal is challenged mainly on the ground that gold is not prohibited goods. Even the Commissioner Appeal has not held the gold as prohibited goods in his order and it is confiscated absolutely only for the reason that importation of gold was not declared to the customs officers and it was concealed in an unusual manner. While the government fully agrees with the Commissioner (Appeals) that the gold is liable for confiscation under Section 111 of the customs Act, 1962, for non-declaration thereof and other violations, it does not agree that the gold can be absolutely confiscated on the above two grounds. Under Section 125 of Customs Act, 1962, it is clearly

stipulated that an option to redeem non prohibited confiscated goods is to be given compulsorily to the claimant of the goods and it is discretionary in respect of prohibited goods. Since gold is not prohibited goods and it is not held so in the order-in original also, the government considers that there is no other option but to allow the redemption of confiscated gold to the applicant on payment of an appropriate fine and customs duties. However, non-declaration of gold and its unusual concealment by the respondent are certainly relevant in this case for determining the quantum of redemption fine and penalty. Considering all these relevant actions and the omissions on the part of the applicant, the government gives an option to the applicant to redeem the confiscated gold within 30 days of this order on payment of customs duties, fine of Rs. 7,50,000/- and penalty of Rs. 4,00,000/-

5. Accordingly, the revision application filed by Mr. Abdul Sattar is allowed and the Commissioner (Appeals)'s order is modified to the extent as discussed above.


(R. P. SHARMA) 9-4-18

ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA

Mr. Abdul Sattar,
R/o H. No.1346, Village Nai Abadi Khalapur
Muzaffar Nagar (UP)

Order No. 60 /18-Cus dated 9-4-2018

Copy to:

1. Commissioner of Customs, IGI Airport Terminal-3, New Delhi-110037
2. Commissioner of Customs (Appeals), New Custom House, Near IGI Airport, New Delhi
3. Additional Commissioner of Customs, IGI Airport, New Custom House, New Delhi
4. Sh. S.S. Arora, Advocate, S.S.Arora & Associates, B.1/71, Safdarjung Enclave, New Delhi-110029
5. PA to AS(RA)
- ✓ 6. Guard File.
7. Spare Copy

ATTESTED



(Nirmala Devi)
Section Officer (RA)