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SPEED POST



F.No. 375/69/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.. 10/4/18

Order No. 6/18-Cus dated 9-4-2018 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/Air-2161/2015 dated 13.11.2015 passed by the Commissioner of Customs (Appeals), New Delhi

Applicant : Mr. Parvez, Nai Mandi, Muzzaffar Nagar

Respondent : Commissioner of Customs, New Delhi

ORDER

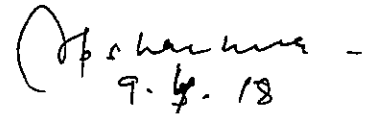
A Revision Application No. 375/69/B/2015-RA.Cus dated 30.2.15 has been filed by Mr. Parvez, Nai Mandi, Muzzaffar Nagar, UP (hereinafter referred to as the applicant) against the Order CC(A)Cus/Air-2161/2015 dated 13.11.2015, passed by the Commissioner of Customs (Appeals), New Delhi, whereby the applicant is allowed to redeem the confiscated gold on payment of redemption fine of Rs.5,60,000/-, and penalty is reduced from Rs.5,00,000/- to Rs.2,80,000/-.

2. The revision application is filed mainly on the ground that the redemption fine and personal penalty are too high and should be reduced. A personal hearing was held on 04.04.2018 and it was attended by Shri S.S. Arora, Advocate, on behalf of the applicant. Shri S.S. Arora mainly emphasised that fine and penalty are excessive and the same should be reduced considering the fact that the applicant was working abroad for long time. However, no one appeared from respondent side.

3. On examination of the revision application and the Commissioner (Appeals)'s order, the Government observes that earlier the original adjudicating authority had absolutely confiscated the gold brought by the applicant and personal penalty of Rs.5,00,000/- was imposed on him. However, subsequently the Commissioner (Appeals) has allowed the applicant to redeem the confiscated gold on payment of redemption fine of Rs.5,60,000/- which is near about 37% of the value of the goods which is just and proper in this case. Further he has also reduced the penalty from Rs. 5,00,000/- to Rs.2,80,000/- on the applicant. Thus the Commissioner (Appeals) has already been fair in this case and the applicant has not made out any case as to how redemption fine are higher in this case. His contention is merely that redemption fine should not have been more than margin of profit. But the Government does not agree with this as the redemption fine is in lieu of value of confiscated goods which is vested with the government on being confiscated and, therefore, value of the confiscated goods is relevant for determination of redemption fine and not the margin of profit. If the above argument of the applicant is accepted,

there will not be any redemption fine on such confiscated goods when illegally imported without any profit margin and thereby the goods would be released without any redemption fine which is manifestly absurd. It cannot be denied that the applicant has indulged in illegal importation of gold for which he has to be accountable under the law of the land. Even the applicant has already complied with the Commissioner (Appeals)'s order and redeemed the goods on payment of duty, redemption fine and personal penalty.

4. In view of the above discussed facts, the Government does not find any merit in the revision application and the same is rejected.


9.4.18

(R.P.Sharma)

Additional Secretary to the Government of India

Mr. Parvez
V.P.O. Baghonwali East P.S. Nai Mandi
Muzzaffar Nagar (UP)

Order No. 61 /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 Delhi
4. Shri 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



(Ravi Prakash)

OSD (REVISION APPLICATION)