

REGISTERED
SPEED POST



F.No. 375/48/B/2018-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..22/3/21

Order No. 62721^A-Cus dated 22-3-2021 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. CC(A)Cus/D-I/Air/73/2017 dated 09.03.2018, passed by the Commissioner of Customs (Appeals), New Delhi.

Applicant : Mr. Muzaffar Ali

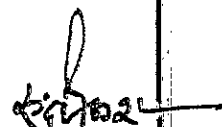
Respondent : Commissioner of Customs, Airport & General, New Delhi

ORDER

A Revision Application No.375/48/B/2018-RA dated 04.06.2018 has been filed by Mr. Muzaffar Ali (hereinafter referred to as the applicant) against the Order No.CC(A)/Cus/D-I/Air/73/2018 dated 09.03.2018, issued by the Commissioner of Customs (Appeals), Delhi. Commissioner (Appeals), vide the above mentioned Order-in-Appeal, has rejected the appeal, against the Order-in-Original No. 90/JC/US/2016 dated 31.03.2016 passed by the Joint Commissioner of Customs, IGI Airport, New Delhi, on the ground that the applicant did not make the mandatory pre-deposit of 7.5%, as per Section 129 (E) of the Customs Act, 1962.

2. The brief facts of the case are that the applicant arrived on 18.02.2014 at IGI Airport from Sharjah and was intercepted near the exit gate after he had crossed the Customs Green Channel. After search of his person and of his baggage five gold bars, concealed inside the waist belt of pant of the applicant, were recovered from his possession. The gold bars, weighing 583.20 grams, valued at Rs. 15,45,594/-, have been confiscated and free allowance has been denied to the applicant. The adjudicating authority has imposed a penalty of Rs. 5,00,000/- under Section 112(a), 112(b) & 114AA of the Customs Act, 1962 on the applicant. Aggrieved, the applicant filed an appeal before the Commissioner (Appeals) who rejected the appeal as non-maintainable on the grounds mentioned above. The instant revision application has been filed mainly on the ground that the applicant has imported the goods for his personal use and hence these may be released.

3. Personal hearing in the matter was held on 19.03.2021. Sh. N.K. Baksh, Advocate, appeared on behalf of the applicant. Mr. Baksh, Advocate stated that the Commissioner (Appeals) could not have rejected the appeal on the grounds of predeposit not being made. He, however, admitted that pre- deposit has not been made till date. None appeared for respondent nor any request for adjournment has been made. Therefore, case is being taken up for final decision.
4. Government has examined the matter. The Commissioner (Appeals) has rejected the appeal on the ground that the applicant did not make mandatory pre-deposit of 7.5% of the penalty imposed, as per Section 129E of the Customs Act, 1962. Applicant during the course of personal hearing has admitted that till date they have not made the pre-deposit. Only argument is that the appeal could not have been rejected in default of pre-deposit required to have been made. The Government finds that the provisions of Section 129E are plain and unambiguous. In terms thereof the Commissioner (Appeals) shall not entertain any appeal unless the appellant has deposited seven and a half percent, of the duty, in case where duty and penalty are in dispute, or penalty, where such penalty is in dispute. Thus, the condition of pre-deposit provided under the statute is of a mandatory nature. As such, there is no infirmity in the impugned Order-in-Appeal.
5. Accordingly, the revision application is rejected.



(Sandeep Prakash)
Additional Secretary to the Government of India

Sh. Muzaffar Ali,
Village Khoja Nagla Khudda
District Muzaffar Nagar - 251307
Delhi -110006

Order No. 62/21-Cus dated 22-3-2021

Copy to:

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

Attested



(Nirmala Devi)
Section Officer (REVISION APPLICATION)