

SPEED POST



F. No. 372/55/B/2018-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.. 24/3/21.

ORDER NO. 65/ 21-Cus dated 24-3-2021 OF THE GOVERNMENT OF INDIA, PASSED BY Sh. Sandeep Prakash, 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. KOL/CUS/ (A/P)/AA/989/2018 dated 01.06.2018, passed by the Commissioner of Customs (Appeals), Kolkata.

APPLICANT : Mr. Aji Kumar Majhi, Kolkata.

RESPONDENT : Commissioner of Customs (Airport & Administration), Kolkata.

ORDER

A Revision Application No. F. No. 372/55/B/2018-R.A. dated 31.08.2018 has been filed by Mr. Ajit Kumar Majhi, Kolkata (hereinafter referred to as the applicant) against Order-in-Appeal No. KOL/CUS/(A/P)/AA/989/2018 dated 01.06.2018, passed by the Commissioner of Customs (Appeals), Kolkata. The Commissioner (Appeals) has rejected the appeal of the applicant as barred by limitation.

2. The brief facts of the case are that a person named Avijit Sarkar with Airport Entry Pass No. T0002568, working with M/s M. K. Enterprises was apprehended from the vicinity of a toilet at NSCBI Airport, Kolkata, on 14.01.2015, while carrying 04 gold bars, weighing 3000 grams and valued at Rs. 82,50,000/-. During investigations, it was revealed that the applicant was the mastermind of the attempted smuggling activities as he contacted the unscrupulous persons whose identity could not be revealed/ascertained. It was held that he was instrumental in hatching the plan to smuggle out the said gold bars and even received the intimation of another consignment of gold coming from Dubai while giving his statement which resulted in the recovery of another 5000 grams of gold later on. The gold bars weighing 3000 grams were confiscated absolutely and a penalty of Rs. 25 lakhs was imposed on the applicant by the original authority. Aggrieved, the applicant approached Commissioner (Appeals) with an appeal against the imposition of penalty on him which was rejected as time barred. The present revision application has been filed by the applicant on the ground that penalty on him is not justified because gold is not a prohibited item and he did not try to clear the said gold by concealment.

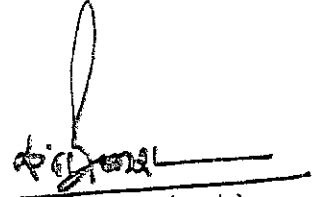
3. Personal hearing in the matter was granted on 22.03.2021. No one appeared for applicant as well as respondent. The applicant's advocate sent an email on 22.03.2021 wherein he stated that his client is unable to attend the hearing and the matter may be adjudicated on the basis of written submissions appended therewith. Since no request for adjournment has been received from the respondent, the matter is taken up for disposal on the basis of facts available on records.

4. The Government has examined the matter. The Commissioner (Appeals) has rejected the appeal of the applicant as time barred. The appeal to Commissioner (Appeals) was filed by the applicant after a lapse of 80 days which has not been contested by the applicant in the revision application. In fact, this issue has not been even touched by the applicant in his application.

5. As per Section 128 of the Customs Act, 1962, an appeal has to be filed before Commissioner (Appeals) within 60 days from the date of communication of the impugned order. In terms of the Proviso to Section 128, the Commissioner (Appeals) may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of 60 days, allow it to be presented within a further period of 30 days. In the present case, the Order-in-Original was received by the applicant on 26.12.2017 whereas the appeal was filed before the Commissioner (Appeals) on 16.03.2018. Thus, the appeal was filed before Commissioner (Appeals) after the normal period of limitation of 60 days. The applicant cited miscellaneous "reason" for condonation of delay, which was not found by the Commissioner (Appeals) to be sufficient to condone the delay. As already brought out hereinabove, the instant revision application does not

contest the findings of the Commissioner (Appeal). In fact, the issue of limitation has not even been touched upon in the revision application. Thus, there are no grounds to interfere with the impugned Order-in-Appeal.

6. The revision application is rejected.


(Sandeep Prakash)

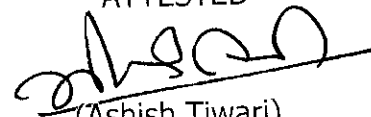
Additional Secretary to the Government of India

Mr. Ajit Kumar Majhi,
18, Jiban Ratan Dhar Road,
11, Dumdum, North 24 Parganas,
Kolkata-700028.

ORDER NO. 657/21-Cus dated 24-3-2021

Copy to:-

1. The Commissioner of Customs, Airport, Kolkata.
2. The Commissioner of Customs (Appeals), Kolkata.
3. Guard File.
- ✓ 4. Spare Copy.
5. PS to ASCRA.

ATTESTED

(Ashish Tiwari)
Assistant Commissioner.