

REGISTERED

SPEED POST



F. No. 372/03/B/2016-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. 27/4/18

ORDER NO. 66/2018-Cus dated 25-4-2018 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. Kol/CUS(Airport)/SS/134/2016 dated 12.05.2016 passed by Commissioner (Appeals), Customs, Kolkata

APPLICANT : Mr. Jatinder Singh, Amritsar

RESPONDENT : Commissioner of Customs, NSCBI Airport, Kolkata

ORDER

A Revision Application No. 372/03/B/2016-R.A. dated 22/08/2016 has been filed by Mr. Jatinder Singh, a resident of Amritsar (hereinafter referred to as the applicant) against the Order-in-Appeal No. Kol/Cus(Airport)/SS/134/2016 dated 12.05.2016, passed by the Commissioner of Customs (Appeals), Kolkata, who has upheld the order of the Adjudicating Authority regarding absolute confiscation of the gold bangle/kara weighing 80.30 grams valued at Rs. 2,18,416/- of the applicant and imposition of Personal Penalty for violation of the provisions of Baggage Rules, 1998 and Customs Act, 1962.

2. The Revision application has been filed by the applicant mainly on the ground that the gold bangle/kara was not purchased from Bangkok, this was in his use when he left from India and, therefore, he has not committed any offence so as to render the goods liable for confiscation and to attract any Personal Penalty.

3. A Personal hearing was held in this case on 20.04.2018 and it was attended by Shri Barinder Singh, consultant, on behalf of the applicant. He furnished written submissions dated 20.04.2018. However, no one appeared for the respondent.

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 premises that the gold in form of 24 karat gold weighing 80.300

●rams Kara valued at Rs. 2,18,416/- was brought by the applicant in contravention of provisions of the Customs Act and the Baggage Rules. However, the applicant has claimed that he had gone out of India alongwith this kara, he had worn it as a religious symbol being a Sikh and he did not purchase it from Bangkok. But the applicant has not produced any evidence to establish that he had taken the Kara alongwith him from India itself and he has not been able to give a convincing reason as to why he had got the gold kara coated with silver colour if he had worn it as a religious symbol in India itself. Moreover, a steel kara is commonly used as a religious symbol and a gold kara is not generally considered as a religious symbol by the Sikhs. Above all, the applicant admittedly worked as a carrier of textile goods from Bangkok and visited foreign countries on frequent basis. These circumstantial evidence corroborate the departmental case that the applicant had brought the gold kara from Bangkok for a commercial purpose and there is no substance in his claim that he had gone from India alongwith the said kara. Therefore, the Government agrees with the order of the Commissioner (Appeals) that the gold kara is liable for confiscation. However, the Government finds that the Commissioner (Appeals)'s order is erroneous to the extent the gold has been confiscated absolutely as Under Section 125 of the Customs Act, 1962, it is mandatory to give option to the owner of the goods to redeem the non prohibited confiscated goods on payment of a fine. Since gold is not held to be prohibited goods in the Order-in-Appeal also, the Government considers that the Commissioner (Appeals) should have give an option to applicant to redeem the gold kara on payment of a fine. As this option

was not given earlier, the Government now allows the applicant to redeem the confiscated gold kara within 30 days of this order on payment of customs duty, fine of Rs. 80,000/ and penalty of Rs 22,000/-.

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

R. P. Sharma
25.4.18
(R. P. SHARMA)

ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA

Mr. Jatinder Singh
S/o Shri Satwinder Singh
H.No. 535, Gali No. 1,
Mahana Singh Road, I/S Sultanwind Road,
Amritsar- 143001.

ORDER NO. 66/2018 - Cus dated 25-4-2018

Copy to:-

1. The Commissioner of Customs, (Airport), NSCBI Airport, Kolkata.
2. The Commissioner of Customs (Appeals), Appeal Unit, Customs House, Kolkata.
3. The Assistant Commissioner of Customs, NSCBI Airport, Kolkata.
- 4 .P.S. to A.S.

5. Forward file
6. Spare copy

ATTESTED

N.D.
25/4/18
(Nirmala Devi)
Section Officer (RA)