



GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(DEPARTMENT OF REVENUE)  
8<sup>th</sup> Floor, World Trade Centre, Centre - I, Cuffe Parade,  
Mumbai-400 005

F.No. 371/79/B/15-RA

/ 1604

Date of Issue 03/10/18

ORDER NO. 675/2018-CUS (WZ) / ASRA / MUMBAI/ DATED 31.08.2018 OF THE GOVERNMENT OF INDIA PASSED BY SHRI ASHOK KUMAR MEHTA , PRINCIPAL COMMISSIONER & EX-OFFICIO ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA, UNDER SECTION 129DD OF THE CUSTOMS ACT, 1962.

Applicant : Smt. Mumtaz Jafferli  
Smt. Yasmina Bibi Hassen Abdul Rahim  
Shri Mohamadally Sheik Mahomed  
Shri Shoheb Haji Darvesh  
Shri Haji Ahmed Darvesh

Respondent : Commissioner of Customs, Mumbai.

Subject : Revision Application filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal No. MUM-CUSTM-PAX-APP-396/15-16 DATED 28.08.2015 passed by the Commissioner of Customs (Appeals), Mumbai - III.



ORDER

This revision application has been filed by Smt. Mumtaz Jafferli, Smt. Yasmina Bibi Hassen Abdul Rahim, Shri Mohamadally Sheik Mahomed, Shri Shoheb Haji Darvesh and Shri Haji Ahmed Darvesh (herein referred to as the Applicants) against the Order in Appeal C. Cus No. MUM- CUSTM-PAX-APP-396/15-16 DATED 28.08.2015 passed by the Commissioner of Customs (Appeals), Mumbai-III.

2. Briefly stated the facts of the case are that the applicants, Smt. Mumtaz Jafferli, Smt. Yasmina Bibi Hassen Abdul Rahim and Shri Mohamadally Sheik Mahomed arrived at the CSI Airport on 08.11.2013. They were intercepted by the Customs officers and examination of their person and baggage resulted in the recovery of assorted gold jewelry totally weighing 3620 gms valued at Rs.1,00,50,568/- (Rupees One crore Fifty thousand Five hundred and Sixty eight). The gold was handed over to them by Shri Haji Ahmed Darvesh in Mauritius to be handed over to Shri Shoheb Haji Darvesh in India.

3. After due process of the law vide Order-In-Original No. ADC/ML/ADJN/80/2014-15 dated 14.10.2014 the Original Adjudicating Authority ordered absolute confiscation of the gold under Section 111 (d), (l), (m) of the Customs Act, 1962 and imposed penalty of Rs. 5,00,000/- each on Smt. Mumtaz Jafferli, Smt. Yasmina Bibi Hassen Abdul Rahim and Shri Mohamadally Sheik Mahomed and a penalty of Rs. 1,00,000 each on Shri Haji Ahmed Darvesh and Shri Shoheb Haji Darvesh under Section 112 (a) of the Customs Act, 1962.

4. Aggrieved by the said order, the Applicant filed an appeal before the Commissioner (Appeals). The Commissioner (Appeals) vide Order-In-Appeal MUM- CUSTM-PAX-APP-396/15-16 dated 28.08.2015 rejected the appeal of the Applicants.

5. The applicant has filed this Revision Application alongwith a condonation of delay application seeking condonation for delay of one year and nine days, as a look out notice was issued against them preventing in filing the Revision Application in time.

6. A personal hearing in the case was scheduled to be held on 18.05.2018, the Advocate for the respondent Shri P. K. Shigrani attended the hearing, he re-iterated the submissions filed in Condonation of delay Application and pleaded the delay may be condoned as there was a look out notice against the Applicants. Nobody from the department attended the personal hearing.

7. The Government has gone through the facts of the case. Before going into the merits of the case, the government observes that the Revision Application has been after a delay of a year. No application seeking condonation of the delay has been filed alongwith



the revision application. The order in Appeal was received by the Applicants on 13.12.2014 and the Revision Application was filed on 22.12.2015. The law does not permit the Government to condone the delay beyond 90 days.

8. A similar issue has been decided by the Supreme Court in the case of Singh Enterprises v. Commissioner of Central Excise, Jamshedpur, (2008) 3 SCC 70 = 2008 (221) E.L.T. 163 (S.C.), wherein the Hon'ble Court has inter alia held that the period up to which the prayer for condonation can be accepted is statutorily provided, and there was no power to condone the delay after the expiry of the said period. The delay in filing the instant Revision Application by 146 days, therefore cannot be condoned on any grounds. The instant Revision Application is therefore dismissed.

9. So, ordered.

*Ashok Kumar Mehta*  
31.12.18

(ASHOK KUMAR MEHTA)  
Principal Commissioner & ex-officio  
Additional Secretary to Government of India

ORDER No. 625/2018-CUS (WZ) /ASRA/

DATED 31.08.2018

To,

Smt. Mumtaz Jafferli & Others  
C/o Shri P.K. Shingrani, Advocate.  
12/334, 6<sup>th</sup> Floor (Vivek)  
Behind P.F. Office, Bandra ( E),  
Mumbai 400 051.

Copy to:

1. The Commissioner of Customs, CSI Airport, Mumbai.
2. The Commissioner of Customs (Appeals), Mumbai-III.
3. Sr. P.S. to AS (RA), Mumbai.
4. Guard File.
5. Spare Copy.

**ATTESTED**

*S.R. Hirulkar*  
31/12/18

**S.R. HIRULKAR**  
Assistant Commissioner (R.A.)

