

REGISTERED
SPEED POST



F.No.. 372/11/B/18-RA
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

14, HUDCO VISHALA BLDG., B WING
6th FLOOR, BHIKAJI CAMA PLACE,
NEW DELHI-110066

Date of Issue. 19/12/19.

Order No. 68/19-Cus dated 19-12-2019 of the Government of India passed by **Mrs. Mallika Arya, 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.KOL/Cus/Airport)/AA/119/2018 dated 09.01.2018, passed by the Commissioner of Customs (Appeals), Custom House, 15/1, Strand Road, Kolkata-700001.

Applicant : Mr. Ramesh Chandra Kushwaha.

Respondent : Commissioner of Customs (Airport), Kolkata.

ORDER

A Revision Application No. 372/11/B/18-RA dated 02.02.2018 has been filed by Mr. Ramesh Chandra Kushwaha, (hereinafter referred to as the applicant) against the Order-in-Appeal No.KOL/Cus/Airport)/AA/119/2018 dated 09.01.2018 passed by the Commissioner of Customs (Appeals), Kolkata, wherein the appeal of applicant was rejected as time bar on the ground that the applicant failed to produce sufficient cause which prevented them from filing the appeal beyond the stipulated period of sixty days as per Section 128 of the Customs Act, 1962 .

2. The revision application has been filed mainly on the ground that rejection of appeal by Commissioner (Appeals) on grounds of limitation of time period is erroneous as the applicant did not receive the Order-in-Original No. 77/2015 AC dated 24.08.2015 in time and thus he could not file the appeal before the Commissioner (Appeals) within the stipulated period of 60 days.

3. Personal hearings in this case were granted on 20.11.2019 and 05.12.2019. Since no one appeared on behalf of the applicant as well as respondent, the case is being taken up for disposal on the basis of evidence available on record.

4. Government has examined the matter. It is observed that the Commissioner (Appeals) has rejected the appeal as time bar as the appeal was not filed within the stipulated period of 60 days in terms of Section 128 of the Customs Act, 1962. Commissioner (Appeals) in Para No. 9 of the Order-in-Appeal has clearly stated that the impugned Order-in-Original was dispatched on 26.08.2015 vide EMS Speed Post No. EW001334610IN. Since, the said order was sent by speed post which is Government authorized mode of communication with the assessee, the applicant's contention that he did not receive the impugned Order-in-Original is unacceptable.

5. It is on record that the appeal before the Commissioner (Appeals) was filed after a delay of 741 days and that too without an application for condonation of delay. In the light of the above, Government observes that the Commissioner (Appeals) is correct in dismissing the appeal as time bar and impugned Order-in-Appeal requires no interference. Revision application is rejected on grounds of limitation.


(MALLIKA ARYA)

Additional Secretary to the Government of India

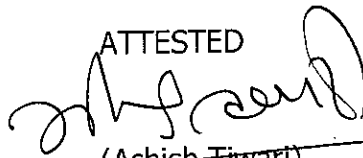
Mr. Ramesh Chandra Kushwaha,
C/o Capital Guest House,
Sri Ram Bhawan, 11B, Chowringhee Lane,
Kolkata-700016.

Order No. 68 /19-Cus dated 19-12-2019

Copy to:

1. Commissioner of Customs, (Airport & Administration), Custom House, 15/1, Strand Road, Kolkata.
2. Commissioner of Customs (Appeals Custom House, 15/1, Strand Road, Kolkata.
3. Additional Commissioner of Customs, (Airport & Administration), NSCB, Kolkata.
4. PA to AS(RA)
5. Guard File.
6. Spare Copy

ATTESTED



(Ashish Tiwari)

ASSISTANT COMMISSIONER (REVISION APPLICATION)