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SPEED POST

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE)

8th Floor, World Trade Centre, Centre – I, Cuffe Parade,

Mumbai-400 005

F.No. 371/66/B/14-RA / 2018

Date of Issue 05/11/2018

ORDER NO. 709/2018-CUS (WZ) / ASRA / MUMBAI / DATED 14.09.2018 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 : Shri Parminder Singh

Respondent : Commissioner of Customs(Airport), Mumbai.

Subject : Revision Application filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal No. MUM-CUSTM-PAX-APP-557/13-14 dated 05.02.2014 passed by the Commissioner of Customs (Appeals) Mumbai-III.



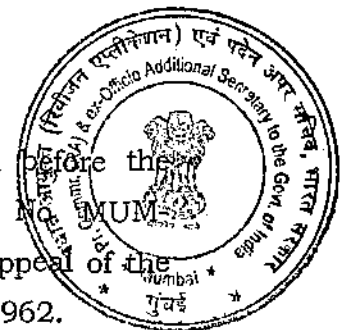
ORDER

This revision application has been filed by Shri Parminder Singh (herein after referred to as the Applicant) against the order No.MUM/CUSTOM-PAX-APP-557-13-14 dated 05.02.2014 passed by the Commissioner (Appeals) Visakhapatnam.

2. Briefly stated the facts of the case are that based on the intelligence, the Officers of the Directorate of Revenue Intelligence rummaged the aircraft having CSI Airport as flight No.AI-120 from Delhi to Mumbai on 15.04.2011 which lead to the recovery and seizure of 10 pcs of 'Nokia' brand mobile phones, 50 pcs of 'Cross' brand pens and other unidentified powdery substances concealed in the rear toilet on board the aircraft. The said aircraft had earlier operated on Bangkok to Delhi route as flight No.AI-333. During the follow-up, Shri Parminder Singh who had concealed the said items was apprehended at the CSI Airport's domestic terminal when he came from Delhi taking the same aircraft which operated as flight No.AI-863 on 16.04.2011. Search of his baggage lead to the seizure of Ruthenium powder, Platinum rings and other articles. The goods totally valued at Rs.56,78,300/- (Rupees Fifty six lakhs Seventy eight thousand and Three hundred). Investigations revealed that the Applicant was involved in smuggling high value chemical drugs and other items into India. .

3. The Original Adjudicating Authority vide Order-In-Original No. ADC/SK/ADJN/17/2012-13 dated 31.01.2013 ordered for absolute confiscation of the impugned goods under Section 111 (d),(e), (i) (l) and (m)of the Customs Act 1962 and imposed penalty of Rs. 15,00,000/- under Section 112 (a) of the Customs Act. A penalty of Rs. 5,00,000/- under Section 114AA of the Customs Act, 1962 was also imposed on the applicant.

4. Aggrieved by the said order, the applicant filed appeal before the Commissioner (Appeals)-Mumbai-III who vide Order-In-Appeal No. MUM/CUSTOM-PAX-APP-557/13-14 dated 05.02.2014 rejected the appeal of the applicant for non compliance of Section 129E of the Customs Act, 1962.



5. The applicant has filed this Revision Application interalia on the following grounds that;

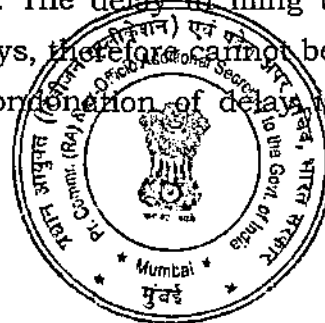
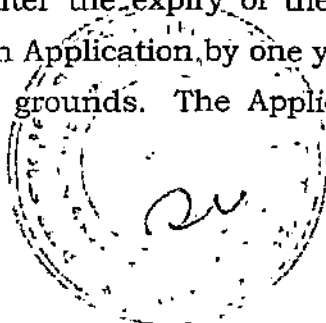
5.1 The goods under seizure are lying with the department; As the goods have been seized in domestic flight the onus of proving that the goods are smuggled is on the department; order of the appellate authority is bad in law, illegal unjust and unfair; The applicant has suffered enough and has been financially ruined; He is the sole bread earner of his family and is unable to make the predeposit; The Applicant has got a good case on merits and has a fair chance of success; The Applicant prays that the pre-deposit of penalty may be waived and case be heard on merits.

6. Personal hearings in the case were scheduled on 28.03.2018, 31.05.2018 and 16.08.2018. Neither the Applicant nor the department attended the personal hearing. The case is therefore being decided exparte on merits

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 146 days. The order in Appeal was received by the Applicants on 05.02.2014 and the Revision Application was filed on 30.09.2014. The law does not permit the Government to condone the delay beyond 90 days.

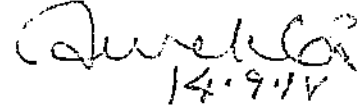
INTERALIA

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 interalia 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 one year and 9 days, therefore cannot be condoned on any grounds. The Application for Condonation of delay is therefore



dismissed and instant Revision Application is also dismissed on same grounds.

11. So, ordered.



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

ORDER No. 709/2018-CUS (WZ) /ASRA/MUMBAI

DATED

14.09.2018

To,

Shri Parminder Singh
C/o Shri N. J. Heera, Advocate
Ground Floor, 41, Mint Road,
Opp GPO,
Fort, Mumbai-1.

Copy to:

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

ATTESTED

B. LOKANATHA REDDY
Deputy Commissioner (R.A.)

