

**REGISTERED
SPEED POST**



**F.No. 372/01-03/B/12-RA
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...12/4/14

Order No. 71-73/14-cus dated 16.04.2014 of the Government of India, passed by Shri D. P. Singh, Joint 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. passed by the Commissioner of Customs (Appeals), Custom House, Kolkata as mentioned in Column 3 of the table in para 1 of this order.
- Applicant : 1. Shri Manish Sachdeva
2. Shri Parminder Pahwa
3. Shri Satbir Singh Gulati
C/o Shri Punam Chand Jain, Consultant
64, Burtolla Street, Kolkata-700007.
- Respondent : Commissioner of Customs,
Custom House, Kolkata.

ORDER

These revision applications are filed by applicant against the Orders-in-Appeal No. passed by the Commissioner of Customs (Appeals), Kolkata as detailed below:-

S.No.	RA No. Name of the Applicant Shri	OIA No. & Date	Order-in-Original No. & Date	Description of Value and Goods (Rs.)	RF/PP/Order As per Order-in- Original (Rs.)	RF/PP/Order As per Order-in- Appeal (Rs.)
1	2	3	4	5	6	7
1	372/01/B/12-RA Shri Manish Sachdeva	25/11 dt. 07-12-2011	1303/11 dt. 30-10-2011	5 Sony Video camera Rs. 250000/-	RF 100000 PP 50000	RF 70000 PP 30000
2	372/02/B/12-RA Shri Parminder Pahwa	24/11 dt. 07-12-2011	1301/11 dt. 30-10-2011	5 Sony Video camera Rs. 250000	RF 100000 PP 50000	RF 70000 PP 30000
3	372/03/B/12-RA Shri Satbir Singh Gulati	26/11 dt. 07-12-2011	1302/11 dt. 30-10-2011	5 Sony Video camera Rs. 250000	RF 100000 PP 50000	RF 70000 PP 30000

2. Brief facts of the cases are that the applicant arrived from Singapore at N.S.C.B.I Airport and opted for red channel customs clearance. On examination of their baggage, the goods, 5 pieces of Sony digital video camera recorder valued at Rupees two lakh fifty thousand (RS. 2,50,000/-) were found in the baggage of each passenger. The said goods were in trade quantity and cannot be treated as bonafide baggage in terms of section 79 of Customs Act. The goods were imported in violation of provisions of 79 of Customs Act r/w para 2.20 of Foreign Trade Policy 2009-14. After following the due process of law, the adjudicating authority, Additional Commissioner (Customs), Airport vide impugned Orders-in-Original confiscated the goods under section 111 (d) of Customs Act. However, he allowed the goods to be redeemed on payment of redemption fine in each case of Rupees one Lakh (Rs. 1,00,000/-) in lieu of confiscation under section 125 ibid. Personal penalty of Rs. 50000/- was also imposed in each case under section 112 of Custom Act. The applicants cleared the goods by paying requisite duty + Fine + Penalty.

3. Being aggrieved by the said orders-in-original, applicants filed appeals before Commissioner (Appeals), who modified the impugned orders and reduced the redemption fine and personal penalty as stated in above table.

4. Being aggrieved by the impugned Orders-in-Appeal, the applicants have filed these revision applications under Section 129 DD of Customs Act, 1962 before Central Government mainly on the following grounds:

4.1 As per the provision of baggage rules 1998 issued vide Notification No. 30/98-Cus (NT) dated 02-06-1998 as amended upto Notification No. 59/2000-Cus (NT) dt. 09-08-2000, 1 piece video camera is of personal effects and should be allowed as per normal baggage rule. As per baggage rule 1998 that portion of the baggage which is not in commercial quantity would be eligible to free baggage allowance. That The applicant has entitled to get full free allowance which has been denied to him. Therefore kindly allow item No. 1 i.e. one piece Camera under normal baggage rule.

4.2 The goods contained in the baggage are not prohibited nor restricted items. The import of such items is permissible under the provision of B.R. 1998 and Foreign Trade Policy. The redemption fine reduced by the CC (A) to Rs. 70,000/- is not legally correct and too much and may be reduced to a reasonable amount.

4.3 That upon arrival the applicants opted for red channel, truthfully declared all my goods which are not prohibited or restricted and the applicant have made a bonafide declaration to this effect under 77 of this Customs Act, 1962, the imposition of penalty of Rs. 30,000/- is not called for and may be waived or reduced to a reasonable amount.

4.4 Under the facts and circumstances of the case the applicants requested to allow item no. 1 i.e. One piece Camera under Normal baggage rule, waive the redemption fine of Rs. 70,000/- and personal penalty of Rs. 30,000/- or reduce to a reasonable amount.

5. Personal hearing was scheduled in these cases 07-03-2013, 24-07-2013 and 29-03-2014. Hearing held on 29-03-2014 at Kolkata, Custom House was

attended by Shri Punam Chand Jain, Consultant on behalf of the applicant who reiterated the grounds of Revision Application.

6. Government has carefully gone through the relevant case records and perused the impugned Orders-in-Original and Orders-in-Appeal.

7. On perusal of records, Government observes that applicant passengers imported the said goods in commercial quantity. As such, the said goods cannot be treated as bona fide baggage in terms of section 79 of Customs Act read with para 2.20 of FTP 2009 – 2014. The said goods were imported in violation of provisions of Section 79, 11 of Custom Act read with provisions of para 2.20 of FTP 2009 – 2014 and Section 3(3) of Foreign Trade (Development & Regulation) Act 1992. The adjudicating authority confiscated the goods under section 111 of Customs Act but allowed the same to be redeemed on payment of redemption fine as shown at column no. 7 of above table in lieu of confiscation, under section 125 of Customs Act, 1962. Personal penalty as shown at column no. 7 of above table was also imposed on the applicants. Applicants in their revision applications have not disputed the confiscation of said goods but requested to reduce redemption fine and penalty. As such order for confiscation of goods and imposition of penalty cannot be assailed.

8. As regards pleadings of the applicants to allow, duty free baggage allowance, it is noted that each applicant has brought 5 video Cameras/Sony which are in commercial quantity and cannot be treated as bonafide baggage in terms of section 79 of Customs Act. The baggage allowance under Baggage Rules 1998, is admissible to bonafide baggage. As such, the lower authorities have rightly denied the benefit of duty free baggage allowance to the items which are in trade quantity.

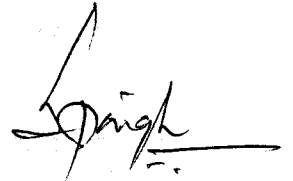
9. As regard, pleadings of the applicants to reduce redemption fine. Government notes that redemption fine appears on higher side and same can be reduced. Keeping in view the overall circumstances of the cases, Government reduces the redemption fine in these cases as detailed below:-

S.No.	RA No. Name of the Applicant Shri	OIA No. & Date	Description of Value and Goods (Rs.)	RF reduced to (Rs.)
1	2	3	4	5
1	372/01/B/12-RA Shri Manish Sachdeva	25/11 dt. 07-12-2011	5 Sony Video camera Rs. 250000/-	50000
2	372/02/B/12-RA Shri Parminder Pahwa	24/11 dt. 07-12-2011	5 Sony Video camera Rs. 250000	50000
3	372/03/B/12-RA Shri Satbir Singh Gulati	26/11 dt. 07-12-2011	5 Sony Video camera Rs. 250000	50000

The personal penalty imposed by lower authorities is quite reasonable and therefore same is upheld. The impugned Orders-in-Appeal are modified to this extent.

10. The revision applications are disposed off in terms of above.

11. So, ordered.



(D.P. Singh)

Joint Secretary to the Govt. of India

1. Shri Manish Sachdeva
 2. Shri Parminder Pahwa
 3. Shri Satbir Singh Gulati
- C/o Shri Punam Chand Jain, Consultant
64, Burtolla Street, Kolkata-700007.

ATTESTED

Order No. ⁷¹⁻⁷³ /14-Cus Dated /6.04.2014

Copy to:

1. The Commissioner of Customs, 15/1 Strand Road, Custom House, Kolkata-700001.
2. The Commissioner of Customs (Appeals), 15/1 Strand Road, Custom House, Kolkata 700001.
3. The Additional Commissioner of Customs (Airport), NSCBI Airport, Custom House, Kolkata.
- ✓ 4. PS to JS(RA)
5. Guard File.
6. Spare Copy

ATTESTED

N Devi

(Nirmala Devi)

Section Officer (REVISION APPLICATION)

(निर्मला देवी / N DEVI)
अनुभाग अधीक्षक (विभाग)
विशेष सहायक (अपिलेटिव) विभाग)
Ministry of Finance (Deptt. of Rev.)
भारत सरकार / Govt. of India
नई दिल्ली / New Delhi