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

F.No. 371/42/B/2014-RA / 2017

Date of Issue 22.11.2018

ORDER NO. 128/2018-CUS (SZ) / ASRA / MUMBAI/ DATED 24.09.2018 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 Fayaz Ahamed

Respondent: Commissioner of Customs, Pune.

Subject : Revision Application filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal No. GOA/CUS/GSK/24/2013 dated 22.03.2013 passed by the Commissioner (Appeals), C.Ex., Cus & S. Tax Goa.



ORDER

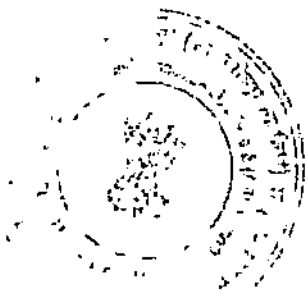
This revision application has been filed by Shri Fayaz Ahamed (herein referred to as Applicant) against the Order in Appeal No GOA/CUS/GSK/24/2013 dated 22.03.2013 passed by the Commissioner of Customs (Appeals),), C.Ex., Cus & S. Tax Goa.

2. Briefly stated the facts of the case are that the applicant, arrived at the Pune International Airport on 10.12.2011. He was intercepted and examination of his person resulted in the recovery of gold weighing 1232.15 gms valued at Rs. 26,16,394/- (Rupees Twenty Six lakhs Sixteen thousand Three Hundred and Ninety four). The gold was recovered from the pant pocket and underpants worn by the Applicant.

3. After due process of the law vide Order-In-Original No. 01/2012-13 dated 31.12.2012 the Original Adjudicating Authority ordered absolute confiscation of the gold under Section 111 (d) (l), (m) of the Customs Act read with Section 3 (3) of Foreign Trade (Development & Regulation) Act and imposed penalty of Rs. 2,50,000/- under Section 112 (a) of the Customs Act,1962. A penalty of Rs. 7,50,000/- was also imposed under Section 114AA of the Customs Act,1962.

4. Aggrieved by the said order, the applicant filed appeal before the Commissioner (Appeals) application who vide Order-In-Appeal No. GOA/CUS/GSK/24/2013 dated 22.03.2013 ordered the release of the gold on payment of Redemption fine of Rs. 26,00,000/- reduced the penalty of Rs. 2,50,000/- under Section 112 (a) to Rs. 1,50,000/- and also reduced the Rs. 7,50,000/- imposed under Section 114AA to Rs.5,00,000/-.

5. Before going into the merits of the case, the government observes that the Revision Application has been filed after a delay of 363 days. The Applicant refrains to give the date of receipt of the order stating that he was out of India. The Order in Appeal was issued on 22.03.2013 and the revision Application was filed on 18.06.2014. 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 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 363 days, therefore cannot be condoned on any grounds.

9. The Application for Condonation of delay is therefore dismissed and instant Revision Application is also dismissed on same grounds.

10. So, ordered.

(Signature)
24.9.18

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

ORDER No. 728/2018-CUS (SZ) /ASRA/MUMBAI

DATED 24.09.2018

To,

Shri Fayaz Ahamed
s/o Saipoodin Khadira
Nawayat Street,
Post Manki,
Honawar, Karwar,
Karnataka 581 348.

Copy to:

1. The Commissioner of Customs, Anna International Airport, Pune.
2. The Commissioner of Customs, C. Ex., and S.Tax (Appeals), Goa.
3. Sr. P.S. to AS (RA), Mumbai.
- ~~4.~~ Guard File.
5. Spare Copy.

