

REGISTERED
SPEED POST



F.No. 372/20/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. 30/12/19...

Order No. 73 /19-Cus dated 30-12-2019 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 Number KOL/Cus/Airport)/AA/295/2018 dated 02.02.2018, passed by the Commissioner of Customs (Appeals), Custom House, 15/1, Strand Road, Kolkata-700001.

Applicant : Mr.Praween Kumar.

Respondent : Commissioner of Customs (Airport), Kolkata.

ORDER

A Revision Application No. 372/20/B/18-RA dated 08.03.2018 has been filed by Mr. Praween Kumar, (hereinafter referred to as the applicant) against the Order-in-Appeal No.KOL/Cus/Airport)/AA/295/2018 dated 02.02.2018, passed by the Commissioner of Customs (Appeals), Custom House, 15/1, Strand Road, Kolkata-700001, wherein the appeal of the applicant has been rejected as time barred.

2. The brief facts of the case are that the applicant arrived from Bangkok on 08.07.2014. On enquiry from Customs officer at Airport as to whether he was carrying any dutiable goods, he replied in negative. However, on search of his baggage 4 Pieces of gold bars made of 24 Karat purity weighing 841.100 grams being carried by the applicant valued at Rs. 23, 75, 266/- were recovered from inside the speaker of TV. The gold bars were confiscated under Section 111 9d), (i) and (l) of the Customs Act, 1962. A penalty of 2,40,000/- was also imposed on the applicant under Section 112(a) and (b) of the Customs Act, 1962.

Aggrieved, the applicant filed an appeal before the Commissioner (Appeals) which was rejected as time bar. The applicant has filed the instant revision application on the ground that the impugned Order-in-Original was received by him on 25.10.2017 and thereafter he filed an appeal on 06.12.2017 i.e. well within the stipulated period of 60 days as per the provisions of Section 128(1) of the Customs Act, 1962.

3. Personal hearing was fixed on 11.12.2019. Sh. Barinder Singh, Consultant, appeared on behalf of the applicant and reiterated the grounds of revision application. He requested for reduction in penalty since the applicant is a carrier and had no connection to the impugned cargo.

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(1) of the Customs Act, 1962. Government observes that the impugned Order-in-Original was delivered to the applicant on 25.10.2017 and that too after the applicant wrote numerous letters to the respondent i.e. letters dated 28.07.2016, 28.12.2016, 20.01.2017 and 26.06.2017. Since the respondent has not produced any cogent evidence regarding delivery of impugned Order-in-Original, the contention of applicant regarding delivery of the Order-in-Original on 25.10.2017 is accepted. It is on record that the appeal has been filed on 06.12.2017. Accepting the date of 25.10.2017 as the date of receipt of the impugned order-in-original it is held that the appeal has been filed well within the statutory period of 60 days as per Section 128(1) of the Customs Act, 1962.

5. Hence the Commissioner (Appeals) order that the appeal is time bar is set aside. Revision Application filed by the applicant is allowed by way of remand to Commissioner (Appeals) with the direction to decide the case on merits.


(MALLIKA ARYA)

Additional Secretary to the Government of India

Mr. Praween Kumar,
S/o Kalyan, R/o, C/o Bharat Ray,
3 No. Motilal Colony,
P.O. Rajbari, North 24 Parganas,
Kolkata-700081.

Order No. _ 73 /19-Cus dated 30-12-2019

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. Shri Barinder Singh, Consultant, 14, Hare Street, Room No. 9, Kolkata-700001.

5. PA to AS(RA)
6. Guard File.
7. Spare Copy

ATTESTED



(Nirmala Devi)
S.O (Revision Application)

ISHWER CHANDER
Super (RA)