

REGISTERED
SPEED POST



F.No. 380/34/B/15-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... 31/8/18

Order No. 94/18-Cus dated 02-8-2018 of the Government of India passed by Shri R.P.Sharma, 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.CC(A)Cus/D-I/Air/399/2015 dated 26.05.2015 passed by the Commissioner of Customs (Appeals), IGI Airport, New Delhi

Applicant : Commissioner of Custom, New Delhi

Respondent : Mr. Niraj Kumar, Gurdaspur-Punjab

ORDER

A Revision Application No.380/34/B/15-RA dated 24.08.2015 is filed by the Assistant Commissioner of Customs, IGI Airport, T-3, New Delhi, (hereinafter referred to as the applicant) against the Order-In-Appeal No.CC(A)Cus/D-I/Air/399/2015 dated 26.06.2015, passed by the Commissioner of Customs (Appeals), New Delhi, who has allowed to the respondent, Sh. Niraj Kumar, R/o BPO-Hargovind pur, Batala Gurdaspur- Punjab to redeem the confiscated gold bars weighing 699.83 grams valued at Rs.8,34,556/- on payment of redemption fine of Rs.9,25,000/- and personal penalty of Rs.,1,85,000/-.

2. The revision application has been filed mainly on the grounds that the respondent was only a carrier of these goods and he had concealed the gold bar in his shoes with the mala fide intention to evade customs duties.

3. Personal hearing in this case were fixed on 18.05.2018 and thereafter 31.05.2018. But neither applicant nor respondent appeared for the hearing and no reason for non availment of hearing was also received from which it is implicit that they are not interested in availing hearing in this matter.

4. The Government has examined the matter and it is observed it is not in dispute that the respondent had brought the gold bars with intention to evade customs duties and in contravention of Section 77 of the Customs Act 1962 and other legal provisions. Accordingly the confiscation of these gold bars ordered by the original adjudicating authority has been upheld by the Commissioner of Customs (Appeal) also. However, he has allowed the respondent to redeem the confiscated gold bars on payment of customs duties and fine under Section 125 of the custom Act 1962 for the reasons that gold bars are not prohibited goods. Even the applicant also in its revision application has not claimed that the gold is prohibited goods. Consequently the Government does not find any error in the order of the commissioner (Appeal) as under Section 125 it is mandatory to give an option to the owner of the goods or the person from whose possession and custody goods were

seized to redeem the goods on payment of fine thus even a carrier is also covered in Section 125 for redemption of goods. As regards reason given by the applicant that the gold bars had been concealed in the shoes, the Government is of the view that while this reason may be relevant to determine the quantum of redemption fine, the redemption of gold bars cannot be denied in this case as the gold brought by them did not become prohibited goods due to its concealment in shoes. Even otherwise also the commissioner (Appeal) has imposed redemption fine of more than 50% of value of the confiscated gold bars and penalty of Rs. 1,85,000/- imposed by the original adjudicating authority is also upheld by considering the concealment of the goods etc. Therefore, the applicant has not made out a case for revising the Order-In-Appeal and the same is found to be just in proper.

5. Accordingly, the revision application filed by the revenue is rejected.

(R.P.Sharma) 2.8.18

Additional Secretary to the Government of India

Commissioner of Customs
IGI Airport Terminal-3,
New Delhi-110037

Order No. 94/18-Cus dated 02-8-2018

Copy to:

1. Mr. Niraj Kumar, R/o BPO-Hargovindpur Batala Gurdaspur-Punjab
2. Commissioner of Customs (Appeals), New Custom House, New Delhi
3. Additional Commissioner of Customs, IGI Airport, Terminal-3, New Delhi-110037
4. PA to AS(RA)
5. ~~Guard File.~~
6. Spare Copy

ATTESTED

(Signature)

(Ravi Parkash)
OSD (Revision Application)