

REGISTERED
SPEED POST



F.No. 375/01/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. 12/8/17

Order No. 04/17-Cus dated 8-9-2017 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.ASR-CUSTOM-PVR-APP; 232/15 dated 27.11.2014 passed by the Commissioner of Customs, Chandigarh

Applicant : Mrs. Mehmuda Harun Tildi, Panchmahar, Gujarat

Respondent : Commissioner of Customs, New (Preventive), Amritsar

ORDER

Mrs. Mehmuda Harun Tildi (hereinafter referred to as applicant) has filed a revision application dated 20.1.15 against the Commissioner (Appeals) order No.ASR-CUSTOM-PVR-APP-232/15 dated 27.11.2014 whereby her appeal against OIO dated 25.9.14, passed by Assistant Commissioner of Customs, Attari Road has been rejected. The Assistant Commissioner had vide his order confiscated the gold pieces valued at Rs.230204/- carried by the applicant from Pakistan from Atari Border and imposed penalty of Rs.25,000/-

2. The revision application has been filed by the applicant with a request to allow to redeem the confiscated gold on payment of redemption fine for their consumption and to impose nominal penalty on the applicant for the reason that the applicant had not concealed the gold, the applicant herself had declared the gold to the Baggage Officer and the import of gold is not prohibited.

3. Personal hearing in this case was offered on 7.9.17 and in response Shri S.S.Arora, who had earlier claimed as applicant's advocate in this case, has informed vide his letter dated 5.9.17 that he is no more applicant's advocate in this case and even the applicant did not appear for personal hearing. Further no request for personal hearing is made by the applicant. The respondent has also neither appeared for personal hearing nor requested for adjournment of the hearing. From these facts it is apparent that the applicant and the respondent are not interested in personal hearing and, therefore, the case is taken up for decision on the basis of available records.

4. On examination of Baggage Officer's report, the OIO and the Commissioner (Appeals) order, it is noticed that the customs case is that the applicant had concealed the gold pieces and not declared gold on the custom counter. However, no supportive evidence like Panchnama relating to concealment of the gold by the applicant has been provided and no statement from the applicant to this effect is found available in the case file. Thus the contention of the applicant that no Panchnama was prepared on the spot and no statement of the petitioner was

recorded by any of the officer is found proved on the basis of records available. The fact of gold being prohibited goods is also not established in the OIO and in the OIA and no Notification regarding prohibition of importation of gold issued by Central Government under Section 11 of the Customs Act 1962 or any other has been cited.

Even the Tribunal has held in the case of Yakub Ibrahim Yusuf Vs Commissioner of Customs Mumbai 2011(263) ELT(Tri-Mumbai) that gold is not a prohibited goods. Considering these facts Government finds merit in the arguments of the applicant that absolute confiscation of the gold illegally imported by the applicant without payment of duty and in violation of Baggage Rules is not just and proper.

5. Accordingly, Government allows the applicant to redeem confiscated gold on payment of applicable custom duties and on payment of redemption fine of Rs.1,16,000/- provided the confiscated gold has not been disposed off till now. However, considering the facts and circumstances of the case the penalty of Rs.25,000/- on the applicant is found just and proper. The Commissioner (Appeals) order will stand modified to the extent as discussed above.

R.P. Sharma
8.9.17

(R.P.Sharma)

Additional Secretary to the Government of India

Mrs. Mehmuda Harun Tildi
Surti Mohd. Yusuf Abdulrahim Mithekhan
Mohalla Muslim Society B, Godhra 389001
Distt. Panchmahal, Gujarat

ATTESTED

Ravi Prakash
08/09/17
(Ravi Prakash)
OSD (REVISION APPLICATION)

Order No. 04/17-Cus dated 8-9-2017

Copy to:

1. Commissioner of Customs, New (Preventive), Customs House, C.R. Building, The Mall, Amritsar-143001
2. The Commissioner of Customs & Central Excise (Appeals), Plot No.19, Sector-17C, Chandigarh (UT)
3. Deputy Commissioner of Customs, LCS Attari Rail Attari Distt. Amritsar
4. PS to AS(RA)
5. Guard File.
6. Spare Copy

Ravi Prakash
08/09/17
(Ravi Prakash)
OSD (REVISION APPLICATION)