

REGISTERED

SPEED POST



F. No. 380/42/B/15-R.A.
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.....

11/10/17

ORDER NO. 11/20/17- Cus dated 10/10/2017 OF THE GOVERNMENT OF INDIA, PASSED BY SHRI R.P. SHARMA, ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA, UNDER SECTION 129DD OF THE CUSTOMS ACT, 1962.

SUBJECT : Revision Application filed, under section 129DD of the Customs Act, 1962 against the Order-in-Appeal No. CC(A)CUS/AIR/1143/2015 dated 31.07.2015 passed by Commissioner (Appeals), NCH, New Delhi.

APPLICANT : Commissioner of Customs(Airport), New Delhi

RESPONDENT : Ms. Fatena Al Naasan, New Delhi

ORDER

A Revision Application No. 380/42/B/2015-RA.Cus dated 29/10/2015 has been filed by Assistant Commissioner of Customs, IGI Airport, New Delhi (hereinafter referred to as the applicant) against the Commissioner (Appeals)'s Order No. CC(A)CUS/AIR/1143/2015 dated 31/07/2015 whereby Ms Fatena Al Naasan, the passenger in this case has been allowed re-export of gold jewellery on payment of redemption fine of Rs. 7,00,000/- and penalty of Rs. 6,00,000/- within a period of six months from the date of receipt of this order.

2. The Revision Application has been filed by the applicant mainly on the grounds that the respondent had attempted to smuggle the goods with an intent to evade Customs Duty by walking through the Green Channel with the gold articles in commercial quantity brought by her from abroad and thus the Commissioner (Appeals) has committed an error by allowing the respondent to re-export the confiscated goods on payment of redemption fine of Rs.7 lakhs and penalty of Rs.6 lakhs. The respondent has strongly contested the Revision Application by citing several reasons such as she is a Syrian citizen and due to severe war conditions in Syria she chose to shift to India for some time along with her family as she had also studied in her childhood in India and to finance their living in India, she sold away her property in Syria and brought its sale proceeds in the form of gold. The above narration of the respondent is also certified by the Charge D' Affaires in the Embassy of Syrian Arab Republic under his certificate dated 29/06/2015. Therefore, she has claimed that she is not a smuggler and did not bring any item for commercial purpose. As regards choosing of Green Channel and non-

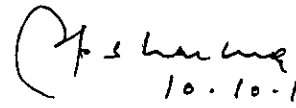
declaration of gold article worn by her on her body, she has pleaded that she was not aware about Indian Customs laws and the mistake has been committed by her under the bonafide belief that she was not required to declare the same on her arrival at Delhi Airport and pay duty thereon.

3. A Personal hearing was granted on 06/10/2017 which was attended by Ms Fatena and she submitted written submissions along with several documents to support her averments during the personal hearing. The Department was represented by Sh. Babu Lal, Superintendent, who stated that the Revision Application be allowed for the reasons discussed therein.

4. On examination of the Revision Application, the Commissioner (Appeals)'s order and the respondent's detailed written submissions in the matter, the Government observes that no case has been made out by applicant in the Revision Application that the gold articles worn by the respondent on her body are prohibited. In fact, there is no reference to this effect in the whole Revision Application. Even otherwise, in catena of orders issued by Commissioner of Customs (Appeals) as well as by the Government it has been held that gold is not a prohibited item. As regards applicant's allegations that gold articles were concealed by the respondents, the Commissioner (Appeals) has categorically observed that jewellery was worn by the passenger on her body and, therefore, the jewellery worn by the respondent could not be considered as baggage and hence this jewellery not required to be declared as baggage by the respondent. This observation of the Commissioner (Appeals) has not been rebutted and challenged in the Revision Application and thus the charge of concealment against the respondent is not

substantiated. However, importation of gold articles by her from Syria/Lebanon without following the due procedure as prescribed under the Foreign Trade (Development and Regulation) Act, 1992 and Customs Act, 1962 is certainly illegal in this case because of which all jewellery brought by her has been rightly confiscated by the original adjudicating authority and even upheld by the Commissioner (Appeals). But considering all the above facts and submissions of the respondent, the applicant has not made any case to prove that the Commissioner (Appeals) has committed any error by allowing the confiscated goods to re-export on payment of redemption fine and personal penalty. On the contrary, the respondent has pleaded that the amount of redemption fine and penalty is too harsh and she is not in a position to pay the same as she does not have any financial resources in this country and her jewellery is also lying with the Customs Department for long time.

5. In view of the above discussion, the Government finds that there is no merit in the Revision Application and, therefore, the same is rejected.


10.10.17

(R. P. SHARMA)

ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA

Ms. Fatena Al Naasan,
IIIrd floor, B - 5 & 6, Vasant Kunj,
New delhi

ORDER NO. 11/17-Cus dated 10/10/2017

Copy to:-

1. The Commissioner of Customs, (Airport), IGI Airport, Terminal -3, New Delhi
- 110037.

2. The Commissioner of Customs (Appeals), New Customs House - Near IGI
Airport, New Delhi - 110037.

3. The Additional Commissioner of Customs, IGI Airport, Terminal - 3, New
Delhi

4. P.S. to A.S.

✓ 5. Guard File

ATTESTED

(Debjit Banerjee)

Sr. Technical Officer