

REGISTERED
SPEED POST



F.No. 375/20/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: 13/11/17

Order No. 47/17-Cus dated 10-11-2017 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.CC(A)Cus/Air/180/2015 dated 31.3.2015 passed by the Commissioner of Customs (Appeals), New Custom House, New Delhi

Applicant : Mrs. Harjeet Kaur Kundi, Delhi

Respondent : Commissioner of Customs, New Delhi

ORDER

A Revision Application No. 375/20/B/15-RA dated 25.05.15 has been filed by Mrs. Harjeet Kaur Kundi, Delhi (hereinafter referred to as the applicant) against the Order No.CC(A)Cus/Air/180/2015 dated 31.3.2015, issued by Commissioner of Customs (Appeals), New Delhi, who has rejected her appeal filed against the order of the Assistant Commissioner of Customs, Airport, confiscating fake Indian currency of the face value of Rs.4,93,500/-, two beige coloured shin pads and imposing penalty of Rs.4,50,000/- on her for various acts of omission and commission. The revision application is filed mainly on the ground that Assistant Commissioner's order is in violation of principle of natural justice, she was falsely implicated by the DRI in this case and she is a very poor widow having liability of one retarded son.

2. The brief facts leading to the present revision application are that fake currency (FICN) of Rs.4,93,500/- were recovered from her on 17th February 2013 at the exit of green channel of Delhi Airport while she had arrived from Bangkok. She was intercepted by the DRI on the basis of a specific intelligence and a search of her body and the baggage was carried out in front of two witnesses by following a proper procedure. In her statement dated 17.2.13 she stated that she had visited foreign countries frequently and accepted that she had carried FICN of the face value of Rs.4,93,500/- given by one Shri Amrik Singh in Bangkok on being offered Rs.50,000/- to her for carrying the same to India. She was also detained under COFEPOSA and she was released only after about three months.

3. A personal hearing was held in this case on 9.11.17 and Ms Sangita Bhayana, Advocate, appeared on behalf of the applicant who reiterated the above mentioned grounds of revision application and prayed for reduction of penalty on the ground of being a poor widow.

4. The Government has thoroughly examined the revision application of the applicant, the orders of the lower authorities, all other relevant records available in the case file and it is noticed that the confiscation of FICN is not disputed at all by the applicant and she has contested only the amount of penalty imposed on her terming it on higher side and alleging she has been implicated by DRI in this case.

She has also averred that the Commissioner (Appeals) has not appreciated that the Assistant Commissioner did not follow the principle of natural justice in as much as the applicant was not given a show cause notice and personal hearings before issuing his order. As regards non-observance of principle of natural justice, Government finds that the Assistant Commissioner has clearly observed in para 22 of his order that no reply to the show cause notice dated 31.7.13 was received from the noticee and nobody from applicant's side appeared for personal hearing on 13th March 2014, 21st March 2014 and 25th March 2014. The Commissioner (Appeals) has also examined this allegation of the applicant but found that the applicant did not produce any proof regarding non-receipt of show cause notice and non-providing of personal hearings. In the revision applications the applicant has claimed that she had sent a letter on 20th March 2014 by speed post for seeking an adjournment of the personal hearing on the ground of not receiving the copy of show cause notice and her counsel had also gone to the airport on 21st February 2014 for personal hearing. Even if this claim is accepted, it is noticed that a letter sent on 20th March 2014 cannot be considered as relevant for seeking the adjournment of personal hearing on 13th March 2014 and it was certainly late even for the personal hearings scheduled on 21st March 2014 and 25th March 2014 as the chance of receipt of this letter by the Assistant Commissioner before the above shearing dates is very remote. The applicant has also not revealed the date of actual receipt of her letter dated 20th March 2014 in the Office of Assistant Commissioner. As regards counsel's visit on 21st February 2014 to the airport for personal hearing, no evidence has been produced regarding any visit and above all this date is much prior to the dates of hearing by the Assistant Commissioner on 13th, 21st and 25th March 2014. Thus, no concrete evidence has been provided in this case to establish non-following of natural justice in this case. Above all, recovery of FICN from her at the time of her arrival at Delhi Airport from Bangkok is not under doubt in the light of above discussed facts and no evidence has been produced by her to substantiate her claim that she was falsely implicated by DRI because of her some altercation with the DRI officers. On the contrary it is manifest in this case that she indulged in the heinous crime of smuggling of FICN for earning easy money and she was fully conscious

about her illegal acts by her own admission in her statement. She had also enough experience of flying on frequent basis to various neighbouring countries and was fully knowing what was wrong. While she has emphasised on her poor background and widowhood, she has not been able to justify her involvement in a serious crime of smuggling of FICN which is a subversive of Indian economy and even the National security. Even her poor background is also not evident from her frequent visits of the foreign countries purportedly for her textile business or otherwise. She has not produced any other evidence that she is having any acute financial problem. Considering all these facts, the Government finds that applicant has not made out any case for any reduction in penalty amount imposed by the Commissioner (Appeals) in his order and as a result no revision is warranted in the order of Commissioner (Appeals).

5. Accordingly, the revision application is rejected.

(R.P.Sharma)
10-11-17

(R.P.Sharma)

Additional Secretary to the Government of India

Mrs. Harjeet Kaur Kundi
202, Bharat Nagar,
Delhi-110052

Order No. 47/17-Cus dated 10-11-2017

Copy to:

1. Commissioner of Customs, IGI Airport Terminal-3, New Delhi-110037
2. Commissioner of Customs (Appeals), New Custom House, Near IGI Airport, New Delhi
3. Assistant Commissioner of Customs, IGI Airport Terminal-3, New Delhi
4. Ms Sangita Bhayana, Advocate, Chamber No.707, LC III, Delhi High Court, New Delhi-110003
5. PA to AS(RA)
6. Guard File.
7. Spare Copy

ATTESTED

Rav
10/11/17

(Ravi Prakash)

OSD (REVISION APPLICATION)