

SPEED POST



F. No. 375/81/B/2019-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. 06/01/2022

Order No. D9/22-Cus dated 05/01/2022 of the Government of India passed by Sh. Sandeep Prakash, 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-1/Air/399/2019-20 dated 22.10.2019 passed by the Commissioner of Customs (Appeals), Kolkata.

Applicant : Ms. Meena Ashok Ahuja, Thane, Maharashtra

Respondent : The Commissioner of Customs, (Airport & General), New Delhi.

ORDER

A Revision Application, bearing no. 375/81/B/2019-RA dated 18.12.2019, has been filed by Ms. Meena Ashok Ahuja, Thane, Maharashtra (hereinafter referred to as the Applicant), against Order-in-Appeal No. CC(A)CUS/D-1/Air/399/2019-20 dated 22.10.2019 passed by the Commissioner of Customs (Appeals), Delhi. The Commissioner (Appeals) has upheld the order of the Joint Commissioner of Customs, IGI Airport, New Delhi, bearing no. 237/AS/JC/2018 dated 30.05.2018, wherein foreign currency USD 151250, equivalent to INR 96,34,625/-, recovered from the Applicant, was confiscated absolutely under Section 113 of the Customs Act, 1962. Besides, penalty of Rs. 10,00,000/- was imposed on Applicant, by the original authority, under Section 114 of the Customs Act, 1962 read with Section 13 of the Foreign Exchange Management Act, 1999, which has been maintained in appeal.

2. The brief facts of the case are that the Customs officers intercepted Applicant after she had completed the emigration & security check formalities and was walking towards the International Departure Area of IGI Airport, New Delhi, on 08.06.2017, when the Applicant was scheduled to depart for Dubai by Flight No. 6E 023. The search of two (02) checked-in baggage of the Applicant, resulted in recovery of foreign currency USD 151250, equivalent to INR 96,34,625/-, which was found concealed ingeniously in the inner cavity of two Casserole kept inside the checked-in Baggage and tubes of dragging handle of the trolley bags. The Applicant herein failed to produce any licit documents for legal acquisition, possession or exportation of the recovered foreign currency. The Applicant on enquiry admitted the recovered foreign currency, in concealed manner and it's handing over to her, by two persons, during her stay at Chandani Chowk, Delhi for further delivery at Dubai, on the directions of her accomplice Sh. Akaan for a monetary consideration of Rs. 20,000/-. The seized foreign currency was confiscated absolutely by the original authority under

Section 113 of the Customs Act, 1962, along with the concealing materials under Section 118, 119 of the Act, *ibid*, vide Order-in-Original dated 30.05.2018. A penalty amounting to Rs. 10,00,000/- was imposed on Applicant, under Section 114 of the Act, *ibid* read with Section 13 of the Foreign Exchange Management Act, 1999. Aggrieved, the Applicant herein filed appeal before the Commissioner (Appeals), who, vide the impugned Order-in-Appeal dated 18.10.2019, rejected the same.

3 The revision application has been filed, mainly, on the grounds that Order-in Appeal was passed in gross violation of principles of natural justice and without considering the submissions and evidences placed before the Appellate Authority during the course of personal hearing; that the Applicant has retracted her statement dated 08.06.2019; that the foreign currency is not a prohibited item; that confiscated foreign currency should, therefore, have been released on payment of redemption of fine & penalty; and that the penalty was imposed in an arbitrary manner.

4. Personal Hearing, in virtual mode, was held on 05.01.2022. Sh. Ajay Singh, Advocate appeared for the Applicant and submitted that at this stage absolute confiscation of currency is not contested. However, keeping in view the fact that the currency has been absolutely confiscated, penalty should be reduced. Sh. Charan Singh, Superintendent appeared on behalf of the respondent department and submitted that it is a case of clever concealment. Keeping in view the amount of foreign currency and nature of concealment, the penalty imposed is appropriate.

5. The Government has examined the matter. In view of the averments made during the course of personal hearing only issue that survives for consideration is whether the amount of penalty imposed on the Applicant is just

(Signature)
(Name)
(Designation)
(Date)

and fair in the facts and circumstances of the case. The Government observes that the foreign currency was attempted to be smuggled by the Applicant in an ingenious manner by concealing it in the inner cavity of two Casseroles kept inside the checked-in baggage and in the tubes of dragging handle of the trolley bags. At the same time, it is also observed that one Sh. Akaan has been found by the lower authorities to be the mastermind behind the attempt to smuggle the foreign currency, which has been absolutely confiscated. Therefore, on the balance, the Government considers that a penalty of Rs. 7,00,000/- would be just and fair.

6. The revision application is disposed of accordingly, and the impugned Order-in-Appeal is modified to the extent indicated above.



(Sandeep Prakash)

Additional Secretary to the Government of India

Ms. Meena Ashok Ahuja,
R/o 103-A, Ratan Garden, Aman Talkies Road,
Near Telephone Exchange, Ulhasnagar,
Thane-421 003, Maharashtra,

Order No. Dg-22-Cus dated 05/01/2022

Copy to:

1. The Commissioner of Customs, (Airport & General), New Customs House, New Delhi-110037.
2. Commissioner of Customs (Appeals), New Customs House, New Delhi-110037.
3. Sh. Ajay Singh, Advocate, 4A, Rahimtoola House, 2nd Floor, 7 Homji Street, Off P. M. Road, Next to Kashmir Emporium Fort, Mumbai-400 001
4. PA to AS(RA).
5. Guard File.
6. Spare Copy.

ATTESTED



(लक्ष्मी राघवन)
(Lakshmi Raghavan)
अनुभाग अधिकारी / Section Officer
वित्त मंत्रालय (राजस्व विभाग)
Ministry of Finance (Deptt. of Rev.)
भारत सरकार / Govt. of India
नई दिल्ली / New Delhi