

REGISTERED
SPEED POST



F.No. 375/61/B/2018-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 21/6/21

Order No. 109/21-Cus dated 18-6-2021 of the Government of India passed by Shri 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/132/2018 dated 09.04.2018, passed by the Commissioner of Customs (Appeals), New Custom House, New Delhi

Applicant : Mr. Mohd. Gulsher, Deoband (Saharanpur)

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

ORDER

A Revision Application No.375/61/B/2018-RA dated 19.07.2018 has been filed by Mr. Mohd. Gulsher, Deoband (Saharanpur) (hereinafter referred to as the Applicant) against the Order No.CC(A)Cus/D-1/Air/132/2018 dated 09.04.2018, passed by Commissioner of Customs (Appeals), New Delhi. Commissioner (Appeals) has upheld the order of the Additional Commissioner of Customs, IGI Airport, Terminal-3, New Delhi, bearing no. 41/Adj/2016 dated 25.05.2016, imposing penalty of Rs. 15,00,000/- under Section 112 of the Customs Act, 1962 on the Applicant.

2. The brief facts of the case are that the Mr. Mohammad Nasir Hussain, arrived on 20.11.2014 at, IGI Airport, from Riyadh. Mr. Mohammad Nasir Hussain and the Applicant were intercepted by the Customs Officers, when they were coming out of the washroom located near the arrival gate of the IGI Airport, as their movements were suspicious. After search of the Applicant, 26 pieces of yellow metal bars, concealed in the shoes worn by the Applicant, were recovered from his possession. The gold bars, weighing 3032.64 grams, were appraised at Rs.70,95,832/- by the Jewellery Appraiser at IGI airport. The Applicant in his statement, recorded under Section 108 of the Customs Act, 1962, admitted the concealment and recovery of gold bars. Applicant further stated that the gold bars were handed over to him by Mr. Mohammad Nasir Hussain in the washroom located near arrival gate of IGI Airport, for taking out of the IGI Airport without payment of customs duty, for a monetary consideration of Rs. 52,000/-. The revision application is filed mainly on

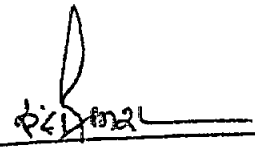
the ground that the Applicant was working with the M/s Neha Aviation Management and is earning a meager salary of Rs. 10,000/- per month; that can not pay such a huge amount of the penalty, that he was merely a carrier and in return he has got only Rs. 52,000/-. Therefore, the personal penalty of Rs. 15,00,000/- may be reduced.

3. A personal hearing, in virtual mode, was held on 18.06.2021. Sh. D. S. Chadha, Advocate, appeared on behalf of the Applicant and reiterated the contents of the revision application. He submitted that the gold was smuggled by another identified person and the Applicant was only involved in facilitating this person by taking the gold out of the airport terminal. The Applicant did this for a monetary consideration of Rs. 52,000/- and agreed to do so in his adverse pecuniary circumstances. Hence, the penalty should be reduced. Sh. Rajnish Kumar, Superintendent opposed the revision application and highlighted that as the employee of the ground staff at the airport, the Applicant had access to interior areas of the terminal. Since the Applicant was misusing this access, this is a fit case for exemplary penalty.

4. 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 and fair in the facts and circumstances of the case. The Government observes that the gold was attempted to be smuggled by the Applicant in an ingenious manner by concealing

the bars in his shoes by misusing his position as a worker in an organization located in the premises of IGI Airport and due to which he had easy access to the interior area of airport. At the same time, it is also true that the Applicant had himself not smuggled the gold but was facilitating the smuggling for a small consideration. Thus, on balance, the Government finds that some relief is merited in respect of the penalty imposed. As such, the penalty imposed on the Applicant is reduced to Rs. 7,50,000/- (Rupees Seven Lakhs fifty thousand only).

5. The impugned order of the Commissioner (Appeals) is modified to the above extent and the revision application is disposed of accordingly.



(Sandeep Prakash)

Additional Secretary to the Government of India

Mr. Mohd Gulsher
H. No. 144, Khadanja Ahmadpur, PS Deoband,
Teh Deoband, Saharanpur,
Uttar Pradesh 247554

Order No. 109/21-Cus dated 18-6-2021

Copy to:

1. Commissioner of Customs (Airport & General), IGI Airport Terminal-3, New Delhi-110037
2. Commissioner of Customs (Appeals), New Custom House, Near IGI Airport, New Delhi
3. Additional Commissioner of Customs, IGI Airport, New Custom House, New Delhi
4. Shri. D. S. Chadha, Advocate, 92 GF Block V, Eros Garden, Faridabad 121009
5. PA to AS(RA)
- ✓ 6. Guard File.
7. Spare Copy

ATTESTED


21/6/2021
GULSHAN BHATIA
Superintendent