

SPEED POST



F. No. 375/83/B/2019-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. 10/01/22

Order No. 12/2022-Cus dated 10-01-2022 of the Government of India passed by Sh. Sandeep Prakash, Additional Secretary to the Government of India, under Section 129DD of the Customs 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-I/Airport/423/2019-20 dated 30.10.2019, passed by the Commissioner of Customs (Appeals), New Delhi.

Applicant : Sh. Abdul Haq, Delhi.

Respondent : The Commissioner of Customs, IGI Airport, New Delhi.

ORDER

A Revision Application No. 375/83/B/2019-RA dated 19.12.2019 has been filed by Sh. Abdul Haq, Delhi (hereinafter referred to as the Applicant) against the Order-in-Appeal No. CC(A)CUS/D-I/Airport/423/2019-20 dated 30.10.2019 passed by the Commissioner of Customs (Appeals), New Delhi. The Commissioner (Appeals) has, vide the impugned Order-in-Appeal, has rejected the appeal filed by the Applicant herein against the Order-in-Original No. 388/AS/JC/2018 dated 28.09.2018, passed by the Joint Commissioner of Customs, IGI Airport, New Delhi, on the ground that the Applicant did not make the mandatory pre-deposit of 7.5%, as per Section 129(E) of the Customs Act, 1962.

2. The brief facts of the case are that the Applicant arrived on, 17.11.2017, at IGI Airport from Muscat and was intercepted near the exit gate of Arrival Hall after he had crossed the Customs Green Channel. After search of his person and baggage, four (04) yellow metal bars, collectively weighing 460 gms, valued at Rs. 12,53,552/-, were recovered from his possession, which were seized. The original authority, vide the aforesaid Order-in-Original dated 28.09.2018, denied the free allowance to the Applicant and ordered confiscation of the seized goods but allowed to redeem the confiscated goods on payment of fine of Rs. 2,50,000/- under Section 125 of the Customs Act, 1962. A penalty of Rs. 2,50,000/- was also imposed under Section 112 & 114AA of the Act, *ibid.* Aggrieved, the Applicant filed an appeal before the Commissioner (Appeals) who rejected the appeal as non-maintainable on the grounds that the Applicant did not make the mandatory pre-deposit.

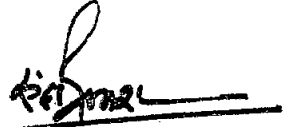
3. The instant revision application has been filed, mainly, on the grounds that the Applicant has already deposited duty and made the pre-deposit vide TR-6 Challan No. 50350 dated 03.04.2019, before passing of the impugned Order-in-Appeal; that no personal hearing was granted to the Applicant; that the redemption fine is on a higher side and keeping in view of the facts of the case, no penalty is imposable or a token penalty be imposed.

4. Personal hearing, in virtual mode, was held on 10.01.2022. Sh. S.S. Arora, Advocate appeared for the Applicant and submitted that the pre-deposit amount was deposited on 02.05.2019 i.e. much before the impugned OIA came to be passed. Hence,

the matter may be remanded for consideration on merits. None appeared for the Respondent department nor any request for adjournment has been received.

5. The Government has examined the matter carefully. It is observed that the Commissioner (Appeals) has rejected the appeal on the ground that the Applicant did not make the mandatory pre-deposit, as per Section 129E of the Customs Act, 1962. It is not disputed that being a mandatory condition the pre-deposit ought to have been made. Applicant has claimed that requisite pre-deposit had been made and the Commissioner (Appeals) did not take the notice thereof while passing the impugned order. A copy of TR-6 Challan No. 50350 dated 03.04.2019, evidencing payment of pre-deposit amount on 02.05.2019, has been placed on record. Subject to verification thereof, it would be in the interest of justice that the matter is remanded to Commissioner (Appeals) with a direction to decide the appeal afresh, on merits.

6. In view of the above, the revision application is allowed by way of remand to Commissioner (Appeals), with directions as above.



(Sandeep Prakash)

Additional Secretary to the Government of India

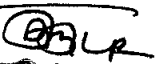
Sh. Abdul Haq,
R/o H. No. 1816,
Chatta Agha Jan, Kucha Chelan,
Daryaganj, Delhi – 110002.

Order No. 22/2022-Cus dated 10-01-2022

Copy to:

1. The Commissioner of Customs, IGI Airport, Terminal – 3, New Delhi – 110037.
2. The Commissioner of Customs (Appeals), New Customs House, Near IGI Airport, New Delhi – 110037.
3. Sh. S.S. Arora & Associates, B1/71, Safdarjung Enclave, New Delhi – 110037.
4. PA to AS(RA).
5. Guard File.
6. Spare Copy.

ATTESTED


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