

REGISTERED  
SPEED POST



F.No. 375/105/B/2018-RA  
GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(DEPARTMENT OF REVENUE)

14, HUDCO VISHALA BLDG., B WING  
6<sup>th</sup> FLOOR, BHIKAJI CAMA PLACE,  
NEW DELHI-110 066

Date of Issue... 8/7/21

Order No. 124/21-Cus dated 8-7-2021 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 Applications under Section 129 DD of the Customs Act 1962 against the Order-in-Appeal No. 19 (SM)/ Cus/ JPR/ 2018 dated 18.07.2018 passed by the Commissioner (Appeals), CGST, Central Excise & Customs, Jaipur

Applicant : Sh. Rajesh G. Wadhwa, Mumbai

Respondent : Commissioner of Customs (Prev.), Jodhpur

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**ORDER**

A Revision Application No.375/105/B/2018-RA dated 16.10.2018 has been filed by Sh. Rajesh G. Wadhwa, Mumbai (hereinafter referred to as the Applicant) against the Order in Appeal No. 197 (SM)CUS/ JPR/ 2018 dated 18.07.2018, passed by the Commissioner (Appeals), CGST, Central Excise and Customs, Jaipur. Commissioner (Appeals) has upheld the order of the Joint Commissioner of Customs, Jaipur, bearing no. 40/2016-JC Cus dated 21.12.2016, ordering absolute confiscation of 06 gold bars, valued at Rs. 18,94,832/-, and imposing penalty of Rs. 1,00,000/- and of Rs. 50,000/- under Section 112(a) & Section 114AA, respectively, of the Customs Act, 1962, on the Applicant.

2. The brief facts of the case are that the Applicant arrived, on 11.06.2015, at the Jaipur Airport, from Sharjah. Applicant was intercepted while passing through the exit gate after he had crossed the Customs Green Channel. After search of the Applicant, 06 pieces of gold bars, concealed in the rectum by the Applicant, were recovered from his possession. The gold bars, weighing 699.2 grams, were appraised at Rs.18,94,832/- by the Government approved Valuer at Jaipur airport. The Applicant in his statement dated 11.06.2015, recorded under Section 108 of the Customs Act, 1962, admitted the concealment and recovery of gold bars concealed in his rectum. Applicant further stated that the gold bars belong to him. He further stated that he attempted to smuggle the gold bars with the intent to evade duty and earn profit by selling it on higher price in India. The revision application is filed,

mainly, on the ground that the Applicant is not a carrier and hence the penalty of Rs. 1,50,000/- is on a higher side and may be reduced/waived.

3. A personal hearing, in virtual mode, was held on 07.07.2021. Sh. Om Prakash Rohira, Advocate, appeared on behalf of the Applicant and reiterated the contents of the revision application. He highlighted that the Applicant has been acquitted in the criminal proceedings arising out of the same case. At this stage, they are not claiming the redemption of seized gold but penalty should be waived/reduced. No one appeared for the respondent department nor any request for adjournment has been received. However, a detailed reply dated 06.03.2019 has been filed by the department. Hence, the case is taken up for disposal based on records.

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 gold bars in his rectum. Though the Applicant has been acquitted in criminal proceedings, it is observed from the judgment dated 24.05.2016 of the CMM (Economic Offence), Jaipur (placed on record by the Applicant) that such acquittal is on the basis of 'benefit of doubt'. After due consideration of all aspects, the Government finds that the penalty of Rs. 1,50,000/- imposed by the original

authority, as upheld by the Commissioner (Appeals), is just and fair and does not merit interference.

5. Accordingly, the revision application is rejected.



(Sandeep Prakash)

Additional Secretary to the Government of India

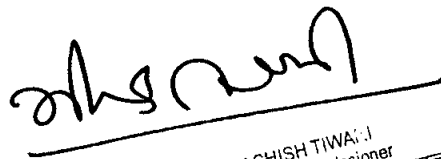
Sh. Rajesh G. Wadhwa,  
BK No. 1935, Room No. 2, OT Section,  
Ulhasnagar -5, District Thane,  
Maharashtra.

Order No. 124 /21-Cus dated 8-7-2021

Copy to:

1. The Commissioner of Customs, Jodhpur, Hqrtrs at New Central Revenue Building, Statue Circle, C Scheme, Jaipur-302005.
2. The Commissioner of Central Excise & Customs (Appeals), New Central Revenue Building, Statue Circle, C Scheme, Jaipur-302005.
3. Sh. O.M. Rohira, Advocate, 148/301 Uphaar, 10<sup>th</sup> Road, Khar (W), Mumbai- 400 052.
4. PA to AS(RA)
5. Guard File.
6. Spare Copy.

ATTESTED



आशीष तिवारी / ASHISH TIWARI  
सहायक आयुक्त/Assistant Commissioner  
केन्द्रीय वस्तु एवं सेवा कर, केन्द्रीय उत्पाद एवं सीमा शुल्क  
CGST, Central Excise & Customs  
राजस्व विभाग / Department of Revenue  
वित्त मंत्रालय / Ministry of Finance  
भारत सरकार / Government of India  
नई दिल्ली / New Delhi