

SPEED POST



F. No. 375/84/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. 13/22-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 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/Airport/360/2019-20 dated 07.10.2019, passed by the Commissioner of Customs (Appeals), New Delhi.

Applicant : Sh. Vipul Ramesh Jadhav, Thane, Maharashtra

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

ORDER

A Revision Application No. 375/84/2019-RA dated 23.12.2019, has been filed by Sh. Vipul Ramesh Jadhav, Thane, Maharashtra (hereinafter referred to as the Applicant) against the Order-in-Appeal No. CC(A)Cus/D-1/Airport/360/2019-20 dated 07.10.2019, passed by the Commissioner of Customs (Appeals), New Delhi. The Commissioner (Appeals), vide the impugned Order-in-Appeal, has rejected the appeal filed by the Applicant herein against the Order-in-Original No. 82/2017 dated 17.05.2017, passed by the Additional 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 129E of the Customs Act, 1962.

2. The brief facts of the case are that the Applicant arrived, on 21.12.2015, at IGI Airport from Bangkok and was intercepted near the exit gate after he had crossed the Customs Green Channel. The Applicant, in the Indian Customs Declaration Slip, had declared 'NIL' in Column No. 9 (total value of the dutiable goods imported) and did not declare any gold articles in the Column No. 10 of the said slip. The Applicant was diverted for x-ray of his baggage and during the offloading of the goods from the Baggage Trolley, it was noticed that something was pasted and concealed on the upper side of the said Trolley. On enquiry, the Applicant affirmed the pasting & concealment of gold bar on the upper side of the Baggage Trolley with brown color adhesive tape. The gold bar, weighing 1000 gms valued at Rs. 23,31,840/-, was recovered. The original authority, vide the aforesaid Order-in-Original 17.05.2017, denied the free allowance to the Applicant and confiscated absolutely the seized goods. A penalty of Rs. 5 Lakh 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 made the pre-deposit, vide TR-6 Challan No. 2137 dated 18.12.2019; that no personal hearing was granted to the Applicant; that the import of gold is not prohibited; that redemption should, therefore, be allowed; that penalty is not imposable under Section 114AA; and only token penalty should be imposed under Section 112(a).

4. Personal hearing in, virtual mode, was held on 07.01.2022. Sh. S. S. Arora, Advocate, attended the hearing on behalf of the Applicant and submitted that the impugned OIA has been passed without giving any opportunity to them to make the pre-deposit and without affording them a personal hearing. Hence the order has been passed in violation of principles of natural justice. He also stated that the requisite pre-deposit has been made and, hence, matter may be remanded for decision 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. Applicants have claimed that requisite pre-deposit has been made. A copy of TR-6 Challan No. 2137 dated 18.12.2019, evidencing the same, has been placed on record. It is also on record that the Commissioner (Appeals) has decided the case without affording personal hearing. In this background, subject to verification of the pre-deposit having been made, 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

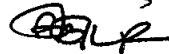
Sh. Vipul Ramesh Jadhav,
S/o Sh. Ramesh Pundalik Jadhav,
R/o A-301, Shri Chintamini Society,
Din Dayal Road, Near Ellora Society,
Dombilvi (W), Thane, Maharashtra - 421202

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Copy to:

1. The Commissioner of Customs (Appeals), New Custom House, Delhi-110037.
2. The Commissioner of Customs, Airport & General, New Custom House, New Delhi - 110037
3. Sh. S. S. Arora, Advocate, B-1/71, Safdarjung Enclave, New Delhi - 110029.
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