

REGISTERED
SPEED POST



F.No. 375/24/B/2021-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... 05/08/21

Order No. 145/21-Cus dated 04-08-2021 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)/Customs/D-I/Air/1479/2020-21 dated 19.02.2021, passed by the Commissioner of Customs (Appeals), New Custom House, New Delhi

Applicant : Mrs. Sarygul Matiyeva, Turkmenistan (at New Delhi).

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

ORDER

A Revision Application No.375/24/B/2021-RA dated 25.05.2021 has been filed by Ms. Sarygul Matiyeva of Turkmenistan (hereinafter referred to as the Applicant) against the Order-in-Appeal No. CC(A)/Customs/D-I/Air/1479/2020-21 dated 19.02.2021, passed by the Commissioner of Customs (Appeals), New Delhi whereby Commissioner (Appeals) has upheld the Order-in-Original No. 283/JS/ADC/2020 dated 01.12.2020 passed by the Additional Commissioner of Customs, IGI Airport Terminal-3, New Delhi.

2. Brief facts of the case are that the Applicant arrived, on 25.12.2019, at IGI Airport, T-3, New Delhi from Ashgabat and was intercepted at the exit gate after she had crossed green channel. Upon personal and baggage search of the Applicant, 07 bracelets, 02 rings & 02 chains, weighing 522 gms (purity 585) and 02 bracelet, 01 chain & 01 necklace, weighing 138 gms (purity 425) were recovered. Thus, total 660 gms of gold items were recovered from the possession of Applicant, which were valued at Rs. 12,41,576/-. The Applicant tendered her statements on 25.12.2019, 26.12.2019 & 30.12.2019 and admitted the recovery of impugned gold items. She further admitted that during the past visits on four occasions, she had brought 350 gms, 300 gms, 300 gms and 500 gms gold (of 14 carat purity) without declaring it to the Customs. The original authority, vide Order-in-Original dated 01.12.2020, confiscated gold items valued at Rs. 12,41,576/- but allowed redemption thereof on a fine of Rs. 1,25,000/- and permitted re-export. A penalty of Rs. 1,25,000/- was also imposed on the Applicant under Sections 112 and 114 AA of the Customs Act,

1962. The original authority, further, confirmed the demand of Customs duty amounting to Rs. 11,13,865/- in respect of 1450 gms gold, valued at Rs. 28,93,156/, smuggled during the last four visits of the Applicant under Section 28 of the Customs Act, 1962 alongwith interest payable thereon and imposed a penalty equal to the amount of duty demanded under Section 114 A ibid. In appeal, the Commissioner (Appeals) upheld the order of original authority.

3. The revision application has been filed on the grounds that the Applicant has been visiting India for medical treatment; that her statements were obtained on blank paper in a language not known to her; and that she had not smuggled gold in the past.

4. The Applicant, vide letter dated 25.06.2021, pleaded her precarious medical condition and her desire to return to her country to seek an out of turn hearing in the matter. The request was accepted. There is a delay of 02 days in filing of the instant RA, which is condoned keeping in view the medical condition of the Applicant.

5. Personal hearing was held on 03.08.2021. The Authorized Representatives of the Applicant, namely, Mr. Revshen Yazov and Ms. Gulshat Amanova, appeared in person. They stated that the Applicant does not understand any other language other than Turkmen. Therefore, the statement recorded with the help of russian interpreter is incorrect. Sh. Anil Kumar Meena, Superintendent appeared for the

department, in virtual mode, and supported the orders of the lower authorities. Upon being asked he stated that the interpreter used by the department was not an official interpreter engaged from any officially recognized agency.

6. The Government has carefully examined the matter. The smuggling of 660 gms of gold ornaments valued at Rs. 12,41,576/-, which were seized from the Applicant, is not denied. Therefore, the only issue in dispute is the allegation that the Applicant had in the past also, on four occasions, smuggled gold, totally weighing 1450 and valued at Rs. 28,93,156/-. It is observed that this allegation is based upon the statement by the Applicant before the Customs Officers. It is also on record that this statement was recorded with the help of an interpreter of russian language. It is the contention of the Applicant that this statement is incorrect and that she does not understand any other language other than Turkmen. The Government observes that it is an admitted position that the interpreter used by the department was not an official interpreter engaged from any official recognized agency. In these peculiar facts and circumstances, the Government finds that fastening a serious liability like smuggling of 1450 gms of gold solely on the basis of such statements, without any corroborative evidence whatsoever, is not sustainable. Accordingly, the demand of Customs duty amounting to Rs. 11,13,865/- alongwith applicable interest and imposition of penalty under Section 114A by the original authority, as upheld by the Commissioner (Appeals), is set aside.

7. The revision application is partly allowed, in above terms.



(Sandeep Prakash)

Additional Secretary to the Government of India

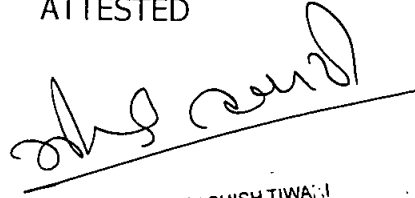
Mrs. Sarygul Matiyeva,
C/o Mrs. Gulshat Amanova,
R/o F-208 Old MB Road 3rd Floor,
New Delhi- 110 030.

Order No. 145 /21-Cus dated 04-08-2021

Copy to:

1. The Commissioner of Customs, IGI Airport Terminal-3, New Delhi-110037
2. The Commissioner of Customs (Appeals), New Custom House, Near IGI Airport, New Delhi-110037.
3. Additional Commissioner of Customs, IGI Airport, New Custom House, New Delhi
4. PA to AS(RA)
5. Guard File.
6. Spare Copy

ATTESTED



आशीष तिचारी / 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