

SPEED POST



F. No. 373/173/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..26/4/23

Order No. 154 /23-Cus dated 26-04-2023 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 C. Cus.I. No. 53/2018 dated 19.04.2018 passed by the Commissioner of Customs (Appeals-I), Chennai.

Applicant : Smt. Samsun Hinaya, Nigambu, Sri Lanka.

Respondent : Pr. Commissioner of Customs, Chennai-I (Airport), Chennai.

.....

ORDER

A Revision Application No. 373/173/B/2018-RA dated 15.05.2018 has been filed by Smt. Samsun Hinaya, Nigambu, Sri Lanka (hereinafter referred to as the Applicant), against the Order-in-Appeal C. Cus.I. No. 53/2018 dated 19.04.2018, passed by the Commissioner of Customs (Appeals-I), Chennai. The Commissioner (Appeals) has upheld the Order-in-Original bearing no. 194/2017-18-Airport dated 05.01.2018, passed by the Joint Commissioner of Customs (Adjudication-Air), Chennai, to the extent of confiscation with option of redemption of seized goods, valued at Rs. 13,89,856/- and the penalty amounting to Rs. 1,40,000/, imposed under Section 112(a) of the Customs Act, 1962. However, the penalty of Rs. 20,000/-, imposed under Section 114AA, has been set aside by the Commissioner (Appeals) and the redemption fine has been reduced to Rs. 3,00,000/-.

2. Brief facts of the case are that the Applicant arrived, on 10.09.2017, at Anna International Airport, Chennai from Colombo. She was intercepted by the Customs officers when she had passed through the green channel. No Customs Declaration was made by her. Upon enquiry, whether she was carrying any gold/ gold ornaments/ dutiable/ contraband items, she replied in negative. Upon examination of her person, 02 nos. of irregular shaped objects wrapped with black colour adhesive, kept concealed on the inner side of brassiere worn by her, were recovered and 02 nos. of yellow metal chains and 13 nos. of yellow colour metal bangles which were worn by her were also recovered. On further examination of said 02 irregular shaped objects, more yellow metal items were recovered. The government approved valuer appraised the recovered goods, as 8 nos. of gold chains, 13 nos. of gold bangles, 2 pairs of gold ear studs without screw (04 nos.), 1 gold ring and 02 nos. of gold bracelets of 22 carats purity, totally weighing 436.3 gms and 02 nos. of gold ingots of 24 carats purity totally weighing 41.7 gms, collectively valued at Rs. 13,89,856/-. In her statement dated 10.09.2017, tendered under Section 108 of Customs Act, 1962, the Applicant stated that the said recovered gold items were her own; that she brought the said gold to Chennai to sell for monetary benefit; that she was well aware that smuggling of gold by way of concealment, without declaration to Customs and without payment of duty is an offence. The Applicant, vide letter dated 10.09.2017, requested that the case may be adjudicated without issuance of show cause notice.

3. The instant revision application has been filed, mainly, on the grounds that the original authority ought to have passed an order to re-export under Section 80 of the Customs Act, 1962 without imposing fine and penalty; that the ownership is not disputed and there is no ingenious concealment, as all ladies would keep the purse in their blouse/bra/brassiere; that most of the jewellery was worn by her and rest of the jewellery was kept in her brazier; and that no declaration card was provided to her. Accordingly, it has been prayed that the redemption fine of Rs. 3,00,000/- may be reduced/set aside and the personal penalty of Rs. 1,40,000/- imposed under Section 112(a) of the Customs Act, 1962 may also be reduced.

4. Personal hearing was fixed on 27.03.2023, 19.04.2023 and 24.04.2023. However, no one appeared for either side nor any request for adjournment has been received. Since sufficient opportunities have been provided, the matter is taken up for disposal based on records.

5. The Government has carefully examined the matter. As per sub-section (3) of Section 129DD, *ibid*, a revision application shall be accompanied by a fee of Rs. 1000/- when the amount of duty and interest demanded, fine or penalty levied by an officer of customs in the case to which the application relates is more than one lakh rupees. The use of word 'shall' in the said sub-section (3) makes it apparent that the requirement of fee is mandatory. It is observed that the Applicant has paid a RA fee of only Rs. 200/- even though penalty involved, in the present case, is in excess of Rs. 1,00,000/-. The Applicant has failed to pay the balance amount of Rs. 800/- despite being repeatedly advised, *vide* letters dated 20.03.2023, 05.04.2023 and 19.04.2023. Therefore, Government holds that the instant revision application is not maintainable as it is not accompanied by the requisite fee, as provided under Section 129DD (3).

6. The revision application is, accordingly, rejected as non-maintainable, without traversing the merits of the case.


(Sandeep Prakash)

Additional Secretary to the Government of India


Smt. Samsun Hinaya,
Nigambu, Sri Lanka
C/o Sh. S. Palanikumar, Advocate,
No. 10, Sunkurama Street,
2nd Floor, Chennai – 600 001

Order No. 154 /23-Cus dated 26-04-2023

Copy to:

1. The Commissioner of Customs (Appeals-I), Chennai Airport & Chennai Air Cargo, 3rd Floor, New Customs House, GST Road, Meenambakkam, Chennai-600 016.
2. The Pr. Commissioner of Customs, Chennai-I, Airport, New Customs House, GST Road, Meenambakkam, Chennai-600 027.
3. Sh. S. Palanikumar, Advocate, No. 10, Sunkurama Street, 2nd Floor, Chennai-600 001.
4. PPS to AS(RA).
5. Guard File.
6. Spare Copy.
7. Notice Board.

ATTESTED


नरेंद्र कुमार सिंह / Narender Kumar Singh
अधीक्षक / Superintendent (R.A. Unit)
वित्त मंत्रालय / Ministry of Finance
राजस्व विभाग / Department of Revenue
Room No. 606, 6th Floor, B-Wing
14, Hudco Vishala Building, Bhikaji Cama Place
New Delhi-110066