

**SPEED POST**



F. No. 373/130/B/2018-RA  
F. No. 373/131/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. 26/4/23

Order No. 156-157/23-Cus dated 26-04-2023 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, filed under Section 129 DD of the Customs Act 1962, against the Order-in-Appeal No. 1029-1030/2017 dated 21.12.2017, passed by the Commissioner of Customs (Appeals), Bengaluru.

Applicants :1. Sh. Jeetu S. Chhapru, Ulhasnagar, Thane  
2. Sh. Mukesh H. Dhingra, Ulhasnagar, Thane

Respondent : Pr. Commissioner of Customs, Airport & Air Cargo Complex, Bengaluru

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**ORDER**

Revision Applications, bearing Nos. 373/130/B/2018-RA & 373/131/B/2018-RA both dated 03.04.2018, have been filed by Sh. Jeetu S. Chhapru, Thane & Sh. Mukesh H. Dhingra, Thane (hereinafter referred to as the Applicant-1 & Applicant-2, respectively), against the Order-in-Appeal No. 1029-1030/2017 dated 21.12.2017, passed by the Commissioner of Customs (Appeals), Bengaluru. The Commissioner (Appeals) has upheld the Order-in-Original passed by the Additional Commissioner of Customs, Airport & Air Cargo Complex, Bengaluru, bearing no. 602/2015-16 dated 17.02.2016, ordering absolute confiscation of 04 cut pieces of gold bars, totally weighing 588.230 grams, collectively valued at Rs. 15,76,456/-, recovered from Applicant-1 & 04 cut pieces of gold bars, totally weighing 599.980 grams, collectively valued at Rs. 16,07,946/-, recovered from Applicant-2, under Sections 111(d), (l) & (m) of the Customs Act, 1962. Besides, penalties of Rs. 4,70,000/- and Rs. 3,10,000/- were imposed on Applicant-1, under Sections 112 & 114AA, respectively, of the Act *ibid* and penalties of Rs. 9,60,000/- and Rs. 3,20,000/-, were imposed on Applicant-2, under Sections 112 & 114AA, respectively, of the Act *ibid*. Moreover, the gold weighing 600 grams, collectively valued at Rs. 16,12,800/-, which was smuggled into India on three earlier occasions by Applicant-2, but was not available, has also been held liable for confiscation under Sections 111 (d), (l) & (m) of the Act, *ibid*.

2. Brief facts of the case are that officers of the Directorate of Revenue Intelligence (DRI), Bengaluru, based on a specific information, intercepted Applicant-2 at Kempegowda Bus Stand, Bengaluru, on 26.02.2015, when he was boarding a bus for Mumbai after his arrival from Thailand at Kempegowda International Airport, Bengaluru, on 25.02.2015. On enquiry of the contents of his baggage, he replied that it contained only personal effects and clothing. On thorough examination of the baggage, 08 cut pieces of gold bars were recovered (02 cut pieces in each packet, neatly wrapped with black carbon papers) and subsequently wrapped with black tape and then covered with a paper. On repeated enquiries by the DRI officers, Applicant-2, revealed that he, along with his friend i.e. Applicant-1, had brought gold bars into India through Bengaluru International Airport by way of rectum concealment, without declaring the same to the Customs Authorities and without payment of applicable Customs duty, on 25.02.2015 by flight TG 325 from

Thailand. Further, he informed that out of 08 cut pieces of gold bars, 04 cut pieces, weighing 599 grams were brought by himself and another set of 04 pieces weighing 588 grams were brought by Applicant-1. On further enquiry, Applicant-2 informed that all these gold pieces were bought by them from one person, namely Sh. Chan Sachahiran in Thailand and they had done this to make some profit. Based on this specific information, another group of DRI officers intercepted Applicant-1, at Bengaluru International Airport when he was about to enter the gate after obtaining his boarding pass for Indigo Flight 6E 426. When enquired about the contents of his baggage, he informed that they contain clothes and personal effects. On repeated questioning, he confessed that he alongwith his friend, i.e. Applicant-2, had brought 04 pieces of gold bars each without any documents and without payment of Customs duty into India through Bengaluru International Airport. He further informed that all the 08 pieces of gold were lying with his friend i.e. Applicant-2. At the DRI office, the recovered 08 pieces of gold were weighed and found to be 1187 grams and valued at Rs. 31,96,591/-. Applicant-2, in his statement dated 26.02.2015, recorded under Section 108 of the Customs Act, 1962, inter-alia, stated that he had been working as a readymade garment dealer in Ulhasnagar; that he had been buying the readymade garments, T-Shirts from various places including Bangkok and sold them in the local market; that he alongwith Applicant-1, booked their tickets to Bangkok for Mumbai to Bangkok by Thai Airways TG 318 on 24.02.2015 and return on 25.02.2015 by Thai Airways flight TG 325 from Bangkok to Bengaluru; that he and Applicant-1, went to Bangkok on 24.02.2015, stayed in Burpa Hotel Co. Ltd., both went to one Sh. Chan Sachariran, who has a shop at 330, Chakraphet Road, Wangburaphaphirom, Phranakom, Bangkok, where they purchased 8 cut pieces of gold bars totally weighing 1187 grams; that the amount for purchase of 08 gold bars was paid by one Sh. Subhash Shetty of Dombivli; that Sh. Subhash Shetty arranged payment for their air ticket and stay in Bangkok; that he packed two pieces of gold bars in each packet, wrapped with carbon paper alongwith outer covering of black tape, thus making a total of 04 packets; that on board the flight, he concealed two packets containing a total of 599 grams of cut pieces of gold bars in his rectum, inside the toilet of the aircraft; that Applicant-1 also concealed two packets of gold bars weighing 588 grams in his rectum, inside the toilet of the aircraft; that on landing at the Bengaluru International Airport, he did not declare the gold

to the Customs; that all gold was to be handed over to Sh. Subhash Shetty, who would give them a commission of Rs. 15,000/- each for the same; that Sh. Subhash Shetty booked Applicant-1's ticket for an evening flight from Bengaluru to Mumbai; that it was planned that he will be carrying the entire gold i.e. 1187 grams of gold to Mumbai; and that he booked a Bus Ticket in National Travels, for going from Bangalore to Mumbai on 26.02.2015. Applicant-1, in his statement dated 26.02.2015, recorded under Section 108 of the Customs Act, 1962, inter-alia, reiterated and corroborated the submissions made by Applicant-2 in his statement. The case was adjudicated by original authority, vide aforementioned Order-in-Original dated 17.02.2016. Aggrieved, the Applicants filed appeals before the Commissioner (Appeals), which were rejected as mentioned above.

3. The revision application has been filed by Applicant-1, mainly, on the grounds that the entire case is based on statements which is baseless without support of any documentary or corroborative evidence; that Customs declarations were fabricated/manipulated by the officers of DRI; that Mahazar drawn in English is invalid; and that penalties imposed under Sections 112 and 114AA of the Customs Act are invalid.

4. The revision application has been filed by Applicant-2, mainly, on the grounds that the entire case is based on statements which is baseless without support of any documentary or corroborative evidence; that Customs declarations were fabricated/manipulated by the officers of DRI; that Mahazar drawn in English is invalid; and that penalties imposed under Sections 112 and 114AA of the Customs Act are invalid

5. Personal hearings in the matter were fixed on 27.03.2023, 19.04.2023 & 24.04.2023. No one appeared for either side nor any request for adjournment has been received. Since sufficient opportunities have been granted, matter is taken up for disposal based on records.

6. The Government has carefully examined the matter. It is observed that the OIA impugned herein was received by the Applicants on 21.12.2017 whereas subject revision applications have been filed on 03.04.2018. As per sub-section (2) of Section 129DD, a

revision application shall be made within a period of three months from the date of communication to the applicant of the order against which the application is being made. Further, in terms of proviso to said sub-section (2), the Central Government may, if it is satisfied that the applicant was prevented by sufficient cause from presenting the application within the aforesaid period of three months, allow it to be presented within a further period of three months. In the subject cases, the revision applications have not been filed within the normal limitation period of 03 months. In both cases, there is a delay of about 13 days. The Government observes that, in both cases, identically worded applications for condonation of delay have been filed and the delay has been sought to be explained in following terms:

" The delay may be condone as applicant's mother was not keeping good health and was unable to instruct his Advocate."

Thus, the cause of delay is stated to be ill health of the mothers of the respective Applicants. However, no medical certificates have been placed on record. Hence, the COD applications are unsubstantiated. Further, the Government finds it peculiar and unexplained that the mothers of both the Applicants fell ill at the same time that too apparently for the same duration. It would, thus, appear that request for condonation of delay have been made in a mechanical and perfunctory manner, without any consideration for factual position. In the conspectus of these facts and circumstances, the Government is constrained to hold that the requests for condonation of delay cannot be accepted.

7. In view of the above, the revision applications are rejected, as time barred.



(Sandeep Prakash)

Additional Secretary to the Government of India


1. Sh. Jeetu S. Chhapru  
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Ulhasnagar-421004, Thane District
2. Sh. Mukesh H. Dhingra  
Barrack No. 1660, Section 26,  
Ulhasnagar-421004, Thane District

Order No. 156-157 /23-Cus dated 26-04-2023

Copy to:

1. The Commissioner of Customs (Appeals), BMTC Building, Above BMTC Bus Stand, Old Airport Road, Domlur, Bengaluru-560071.
2. The Pr. Commissioner of Customs, Airport & Air Cargo Complex, Air India SATS, Air Freight Terminal, Kempegowda, Bengaluru-560300.
3. Sh. Prakash K. Shingrani, Advocate, 12/334, Vivek, New MIG Colony, Bandra (E), Mumbai-400051.
4. PPS to AS(RA).
5. Guard file.
6. Spare Copy.
7. Notice Board.

ATTESTED

  
22/09/2023  
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