

REGISTERED
SPEED POST



F.No. 372/14/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...02/09/21

Order No. 164/21-Cus dated 01-09-2021 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. KOL/CUS(AIRPORT)/AA/1466/2017 dated 18.10.2017, passed by the Commissioner of Customs (Appeals), Kolkata.

Applicant : Sh. Raj Kumar Das, North 24 Parganas.

Respondent : Commissioner of Customs (Airport & Admin), Kolkata.

ORDER

A Revision Application No. 372/14/B/2019-RA dated 25.03.2019 has been filed by Sh. Raj Kumar Das, North 24 Parganas (hereinafter referred to as the Applicant) against the Order-in-Appeal No. KOL/CUS(AIRPORT)/AA/1466/2017 dated 18.10.2017 passed by the Commissioner of Customs (Appeals), Kolkata. The Commissioner (Appeals) has allowed the appeal filed by the department against the Order-in-Original No. 09/2015 ADC dated 10.02.2015 passed by the Additional Commissioner of Customs, AIU, Kolkata, to the extent that redemption of the foreign currency seized from the Applicant, allowed by the original authority, has been set aside and the penalty of Rs. 4,00,000/- imposed under Section 114 of the Customs Act, 1962, has been increased to Rs. 41,52,500/-.

2. Briefly stated, the Customs officers had intercepted the Applicant herein, while he was departing for Bangkok on 29.01.2014 at NSCBI Airport, Kolkata. During the search of his person and his baggage, foreign currency of EURO 50000 concealed by wrapping with black polythene pouch, was recovered from his baggage. The convertible value of the concealed foreign currency was estimated to be Rs. 41,52,500/-. In his statement recorded under Section 108 of the Customs Act, 1962, the Applicant herein stated that the currency was handed over to him by a person at the Kolkata airport to hand over to another person at Bangkok, for which he was getting Rs. 10,000/-. The Additional Commissioner of Customs ordered confiscation of the foreign currency but allowed it to be redeemed on payment of redemption fine of Rs. 8,00,000/- under Section 125 *ibid*, and imposed a penalty of Rs. 4,00,000/- on the Applicant. In the appeal filed by department, the

Commissioner (Appeals) modified the order of the original authority and set aside the option to redeem the currency allowed by the original authority and also increased the penalty imposed to be equal to the value of confiscated currency.

3. The revision application has been filed on various grounds including that the foreign currency is not prohibited goods; that in several cases, the foreign currency has been allowed to be redeemed; and that Section 113(d) & 113 (e) cannot be invoked against the Applicant.

4. Personal hearings in the matter were fixed on 05.08.2021, 16.08.2021 & 27.08.2021. No one appeared for the Applicant and no request for adjournment has also been received. The department attended the hearings granted on 05.08.2021 and 16.08.2021. Since sufficient opportunities have been granted, the case is taken up for final disposal based on records.

5. The Government has carefully examined the matter. As per the RA filed, the impugned Order-in-Appeal was received by the Applicant on 17.11.2017 whereas RA has been filed on 25.03.2019. In terms of Section 129DD (2) of the Customs Act, 1962, the revision application is required to be made within three months from the date of communication of the order against which the application is made provided that 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. Therefore, a revision application has to be filed within the period of three months

and a further condonable period of three months upon sufficient cause being shown. In the present case, the revision application has been filed much beyond the limitation period prescribed under Section 129DD *ibid*. There is no explanation forthcoming for delay, despite letters dated 01.05.2019, 13.07.2021, 05.08.2021 & 16.08.2021. In any case, the instant revision application has been filed even beyond the condonable period of three months. As such, the revision application is barred by limitation.

6. In view of the above, the revision application is rejected as time barred.



(Sandeep Prakash)

Additional Secretary to the Government of India

Sh. Raj Kumar Das,
Son of Kapil Chandra Das,
2 ^{1/2} No. Airport Gate, M.E.S. Ground,
P.O. – Rajbari, North 24 Parganas – 700 081.

Order No. _____ /21-Cus dated _____ 2021

Copy to:

1. The Commissioner of Customs (Airport & Admin), NSCBI Airport, Kolkata – 700 052.
2. The Commissioner of Customs (Appeals), Kolkata, 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001.
3. PA to AS(RA).
4. Guard File.
5. 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