

SPEED POST



**F. No. 375/71/B/2019-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. 17/11/22

Order No. 18/2022-Cus dated 17-01-2022 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 No. CC(A)Cus/D-1/Airport/332/2019-20 dated 25.09.2019, passed by the Commissioner of Customs (Appeals), New Delhi.

**Applicant** : Sh. Rajinder Kumar, Chandigarh

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

**ORDER**

A Revision Application No. 375/71/B/2019-RA dated 02.12.2019 has been filed by Sh. Rajinder Kumar, Chandigarh (hereinafter referred to as 'the Applicant') against the Order-in-Appeal No. CC(A)Cus/D-1/Airport/332/2019-20 dated 25.09.2019 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. 231/Adjn./2018 dated 29.05.2018, passed by the Additional Commissioner of Customs, IGI Airport, New Delhi, on the grounds that the Applicant did not make the mandatory pre-deposit of 7.5%, as per Section 129 E of the Customs Act, 1962.

2. Brief facts of the case are that the Applicant arrived on, 04.08.2017, at IGI Airport, New Delhi from Bangkok. He was intercepted by the Customs Officers near the Exit Gate of Arrival Hall after he had crossed the Green Channel. On personal search, one (01) raw gold rod crudely bent in circle shape, kept in the right side back pocket of blue colour jeans worn by the Applicant, weighing 1392 Grams, was recovered. The value of the recovered Gold was appraised as Rs. 36,92,983/-. The offending goods were confiscated absolutely by the original authority, vide Order-in-Original dated 29.05.2018. Penalty of Rs. 7.39 Lakh was also imposed on the Applicant. Aggrieved, the Applicant filed an appeal before the Commissioner (Appeals), who vide the impugned Order-in-Appeal dated 25.09.2019, rejected the appeal, as non-

maintainable, on the grounds that the requisite pre-deposit amount equivalent to 7.5% of penalty had not been deposited by the Applicant.

3. The instant revision application has been filed, mainly, on the grounds that the Order-in-Appeal has been passed without considering the application filed by the Applicant herein for stay and waiving off payment of penalty; that no opportunity for hearing was granted; that mandatory deposit of Rs. 55,500/- i.e., 7.5% of the penalty imposed has been deposited vide TR-6 Challan No. 1921 dated 30.11.2019; and that original authority had also decided the case as ex-parte.

4. The personal hearing was fixed on 15.12.2021, 04.01.2022 and 17.01.2022. None appeared for the Applicant or Respondent. However, the Applicant submitted a written submission vide email dated 17.01.2022. Since sufficient opportunities have already been granted, the matter is taken up for disposal based on records.

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 since been made and a copy of TR-6 Challan No. 1921 dated 30.11.2019, evidencing the same, has been placed on record. It is also on record that the Commissioner (Appeals) has

(Signature)  
(Name)  
(Designation)  
(Date)

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, in accordance with the principles of natural justice.

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. Rajinder Kumar,  
S/o Shri Piara Lal,  
R/o H. No. 8, Type II, PGI,  
Sector-12, Chandigarh-160012

Order No. 18/2022-Cus dated 17-01-2022

Copy to:

1. The Commissioner of Customs, (A&G), New Customs House, Near IGI Airport, New Delhi - 110037.
2. The Commissioner of Customs (Appeals), New Customs House, Near IGI Airport, New Delhi - 110037.
3. Sh. R.K. Sood, Advocate, 702, Sector -12-A, Panchkula, Haryana.
4. PA to AS(RA).
5.  Guard File.
6. Spare Copy.

ATTESTED



(लक्ष्मी राघवन)  
(Lakshmi Raghavan)  
अभूतगत अधिकारी / Section Officer  
वित्त विभाग (राजस्व विभाग)  
Ministry of Finance (Deptt. of Rev.)  
भारत सरकार / Govt. of India  
नई दिल्ली / New Delhi