

REGISTERED  
SPEED POST



F.No. 375/06/DBK/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... 18/12/2020

Order No. 19/20-Cus dated 12-12-2020 of the Government of India passed by Sh. Sandeep Prakash, Principal Commissioner & 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)Cus/D-I/Air/403/2017 dated 29.09.2017, passed by the Commissioner of Customs (Appeals), New Delhi.

Applicant : Mr. Mohd. Ishaq

Respondent : Commissioner of Customs, Airport & General, New Delhi

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**ORDER**

A Revision Application No.375/06/B/2017-RA dated 29.09.2017 has been filed by Mr. Mohd. Ishaq (hereinafter referred to as the applicant) against the Order No.CC(A)/Cus/D-I/Air/403/2017 dated 29.09.2017, issued by the Commissioner of Customs (Appeals), Delhi. Commissioner (Appeals) vide the above mentioned Order-in-Appeal has rejected the appeal on the ground that the applicant did not make the mandatory pre-deposit of 7.5%, as per Section 129 (E) of the Customs Act, 1962.

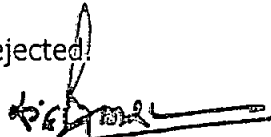
2. The brief facts of the case are that the applicant arrived on 25.10.2014 at IGI Airport from Dubai and was intercepted near the exit gate after he had crossed the Customs Green Channel. After search of his person and of his baggage ten cylindrical pieces made of yellow metal were recovered from his possession. The applicant admitted that the recovered yellow metal pieces are gold. The gold articles of 995 purity, weighing 1841 grams, valued at Rs. 45,82,785/-, have been confiscated and free allowance has been denied to the applicant. The adjudicating authority has imposed a penalty of Rs. 9,20,000/- under Section 112(a), 112(b) & 114AA of the Customs Act, 1962 on the applicant. Aggrieved, the applicant filed an appeal before the Commissioner (Appeals) who rejected the appeal as non-maintainable on the grounds mentioned above. The instant revision application has been filed mainly on the ground that the applicant is not in a position to make a pre-deposit due to his poor financial condition and the Commissioner (Appeals) has ignored this fact and passed the order on technical grounds.

3. Personal hearing in the matter was held on 17.12.2020. Sh. Ashish Bansal, Advocate, attended the hearing on behalf of the applicant. He reiterated the grounds of revisions already made in their Revision Application. He further requested that the case may be remanded to the Commissioner (Appeals) for decision on merits subject to the applicant making the required pre deposit within 07 days from the date of personal hearing i.e. 17.12.2020. None appeared for respondent. Therefore,

case is being taken up for final decision on the basis of evidence available on records.

4. Government has examined the matter. The Commissioner (Appeals) has rejected the appeal on the ground that the applicant did not make mandatory pre-deposit of 7.5% as per Section 129 (E) of the Customs Act, 1962. It is not disputed that being a mandatory condition the pre-deposit ought to have been made. Only plea at this stage is that the matter should, now, be remanded back to Commissioner (Appeals) for decision on merit subject to the pre-deposit being made within 07 days. It is observed that the order of Commissioner (Appeals) is more than 3 years old and the applicant was having sufficient time to make the pre-deposit, but the same was not done. Even at this late stage, the applicant has not sought a remand after making the pre-deposit but has made pre-deposit conditional to the remand order being passed. There is no explanation as to why the applicant could not approach with this plea after making the pre-deposit when he is admittedly, now, in a position to do so. In the circumstances, the request made by applicant does not appear to be bonafide. Keeping in the view the statutory position, there is no infirmity in the impugned Order-in-Appeal.

5. Accordingly, the revision application filed by the applicant is rejected.

  
(Sandeep Prakash)

Additional Secretary to the Government of India

Sh. Mohd. Ishaq,  
Q-8, DDA Flat, Turkman Gate Asaf Ali Road,  
Delhi -110006

Order No. 19/20-Cus dated 19-12-2020

Copy to:

1. The Commissioner of Customs (Appeals), New Custom House, Delhi-110037.

2. The Commissioner of Customs, Airport & General, New Custom House, New Delhi – 110037
3. Assistant Commissioner of Customs, IGI Airport, Terminal-3, Delhi- 110037
4. PA to AS(RA)
5. Guard File.
6. Spare Copy

Attested



(Nirmla Devi)  
Section Officer (REVISION APPLICATION)

(निर्मला देवी)  
(Nirmla Devi)  
अनुयाग अधिकारी (सुधार प्रयोग)  
Section Officer (Revision Application)  
वित्त मंत्रालय (सुधार विभाग)  
Ministry of Finance (Deptt. of Rev.)  
भारत सरकार / Govt. of India  
नई दिल्ली / New Delhi