

SPEED POST



F. No. 375/74/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...18/01/22

Order No. 19/22-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 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/Airport/348/2019-20 dated 30.09.2019, passed by the Commissioner of Customs (Appeals), New Delhi.

Applicant : Sh. Ravi Singh, Delhi.

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

ORDER

A Revision Application No. 375/74/2019-RA dated 10.12.2019 has been filed by Sh. Ravi Singh, Delhi (hereinafter referred to as the Applicant) against the Order-in-Appeal No. CC(A)CUS/D-I/Airport/348/2019-20 dated 30.09.2019, 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. 367/Adjn./2018 dated 20.09.2018, 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 129E of the Customs Act, 1962.

2. The brief facts of the case are that the Customs officers intercepted Applicant after he had completed the emigration & security check formalities and was walking towards the International Departure Area of IGI Airport, New Delhi, on 21.12.2017, to depart for Dubai. His personal search, resulted in recovery of foreign currency of USD 800 and EURO 10000 equivalent to INR 7,98,060/-, which was kept inside the turban, the Applicant was wearing. The Applicant herein failed to produce any licit documents for legal acquisition, possession or exportation of the recovered foreign currency. The seized foreign currency was ordered to be released on payment of redemption fine of Rs. 1,60,000/- by the Original Authority, vide the OIO dated 20.09.2018. Besides, a penalty of Rs. 1,60,000/- was also imposed on the Applicant under Section 114 of the Act, ibid read with Section 13 of the Foreign Exchange Management Act, 1999. Aggrieved, the Applicant herein filed appeal before the Commissioner (Appeals), which was rejected for aforesaid reasons.

3. The instant revision application has been filed, mainly, on the grounds that, pursuant to the order of the original authority, the Respondent department had refunded only the balance amount after deducting the amount of redemption fine and penalty, which itself evidences that the entire amount of redemption fine and penalty had been paid and there is no question of pre-deposit to be deposited separately.

4. Personal hearing in, virtual mode, was held on 17.01.2022. Sh. S. S. Arora, Advocate, appeared for the Applicant and stated that the appeal was rejected by the Commissioner (Appeals) on the grounds that pre-deposit was not made whereas the department had, pursuant to the order of the original authority, recovered the entire fine and penalty amount and refunded only the balance amount of Rs. 4,88,000/- vide refund order dated 21.02.2019/17.01.2019. Hence, the question of making pre-deposit separately does not arise. Further, Commissioner (Appeals) has decided the matter without hearing them. Hence the matter may be remanded to Commissioner (Appeals) for decision on merits after following the principle of natural justice. None appeared for the Respondent department nor any request for adjournment has been received.

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. It appears from records that the seized foreign currency was deposited with the Central Bank of India, IGI Airport Branch, vide letter dated 21.12.2017, with the convertible value of Rs. 7,98,060/-. Subsequently, only an amount of Rs. 4,88,000/- has been refunded to the Applicant herein. A copy of letter dated 21.02.2019 issued by the Assistant Commissioner of Customs

(Refund), IGI Airport, New Delhi 110037, evidencing the same, has been placed on record. Thus, it would appear, as contended, that entire amount of fine and penalty imposed has been recovered from the Applicant pursuant to the OIO dated 20.09.2018. It is also on record that the Commissioner (Appeals) has decided the case without affording personal hearing. In this background, subject to verification of the position stated by the Applicant, as above, 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. Ravi Singh,
S/o Sh. Pappi Singh,
R/o H. No. D-42, Fateh Nagar,
Tilak Nagar, Delhi – 110018.

Order No. 19/2022-Cus dated 17-01-2022

Copy to:

1. The Commissioner of Customs, IGI Airport, Terminal – 3, New Delhi – 110 037.
2. The Commissioner of Customs (Appeals), New Custom House, Near IGI Airport, New Delhi – 110037
3. Sh. S. S. Arora, Advocate, B-1/71, Safdarjung Enclave, New Delhi – 110029.
4. PA to AS(RA)
- ✓ 5. Guard File.
6. Spare Copy.

