

SPEED POST



F. No. 373/114/B/2020-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...11/09/24.

Order No. 191/24-Cus dated 11-09-2024 of the Government of India passed by Smt. Shubhagata Kumar, 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. C.Cus.I. No. 204/2019 dated 16.09.2019, passed by the Commissioner of Customs (Appeals-I), Chennai.

Applicant : Smt. Barakathnisa Shamsudeen, Cuddalore

Respondent : Pr. Commissioner of Customs, Chennai-I

ORDER

A Revision Application, bearing No. 373/114/B/2020-RA dated 26.06.2020, has been filed by Smt. Barakathnisa Shamsudeen, Cuddalore (hereinafter referred to as the Applicant), against the Order-in-Appeal No. C.Cus.I. No. 204/2019 dated 16.09.2019, passed by the Commissioner of Customs (Appeals-I), Chennai, vide which the Commissioner (Appeals) has modified the Order-in-Original No. 178/2018-19-Commissionerate-I dated 11.12.2018, passed by the Joint Commissioner of Customs (Airport), Chennai by holding only 89.6 grams of gold jewellery to be liable for confiscation and confiscation of the remaining quantity of gold nullified. Vide the aforementioned Order-in-Original, one gold chain & one gold bracelet all of 24 carat purity, totally weighing 379 grams and collectively valued at Rs. 11,44,201/- recovered from the Applicant, had been confiscated under Section 111(d) & 111(l) of the Customs Act, 1962, however, they were allowed to be redeemed on payment of redemption fine of Rs. 1,00,000/-. Besides, penalty of Rs. 10,000/- was also imposed on the Applicant, under Section 112(a) of the Act, *ibid*.

2. Brief facts of the case are that the Customs Officers (AIU) intercepted the Applicant, an Indian passport holder, upon her arrival at Chennai Airport, from Bangkok, on 19.01.2018, at the exit of the arrival hall after opting Green Channel. The applicant was questioned whether she was carrying any dutiable goods or gold/gold jewellery either in her baggage or on her person to which she replied in negative. Before the examination of her baggage she was again asked as to whether she has anything to declare to which she replied that she was having personal effects only and was not carrying any gold or gold jewellery either in her baggage or on her person and she has nothing to declare. Upon the search of her person one yellow colour metal chain worn around her neck and one yellow colour metal bracelet worn around her right wrist both of which were concealed beneath the Burkha worn by the her were recovered. The Government of India approved gold appraiser examined and certified the said items as of 24 carat gold, totally weighing 379 grams and collectively valued at Rs. 11,44,201/-.

In her statement immediately after the seizure, recorded under Section 108 of the Customs Act, 1962, the applicant stated inter-alia that her husband was working in

Bangkok; that she is a housewife; that the said one gold chain and one gold bracelet were handed over to her by an unknown person outside Bangkok airport with instruction to smuggle the same by evading the Customs detection and to hand over the same to an unknown person who would identify her and collect the same from her outside Chennai airport and pay her Rs. 25,000/- for carrying the said gold chain and gold bracelet; and that she was well aware that smuggling gold by way of concealing and non-declaring to Customs is an offence and she committed the offence for monetary benefit and requested to be pardoned.

3. The matter was adjudicated by the original authority, vide aforesaid Order-in-Original dated 11.12.2018. Aggrieved, the Applicant filed an appeal before the Commissioner (Appeals), which was modified as above.

4. The revision application has been filed mainly on the grounds that the applicant had not attempted to import any goods into India in contravention of any rules and regulations prevailing in India; that she had declared entire goods brought by her and there is no mis-declaration or non-declaration of the goods; that the gold chain and gold bracelet were worn by her and were not concealed; and that she is not the carrier but owner of the gold jewellery.

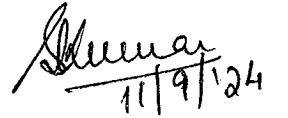
5. Personal hearings in the matter were fixed on 12.06.2024 & 03.07.2024 which were postponed on the request of Sh. A.K Jayaraj, advocate for the applicant vide his letters received on emails dated 11.06.2024 & 02.07.2024. A written submission was received from the side of respondents vide email dated 12.06.2024 which has been taken on record. Personal hearing was again fixed for 09.08.2024, however, no one appeared for either side on the said date. As such, it is presumed that neither side has anything to add in the matter further. Accordingly, the matter is being taken up for disposal based on available records.

6. On examination of the relevant case records, it is observed that the impugned Order-in-Appeal dated 16.09.2019 was received by the Applicant on 04.10.2019 as admitted by him. The revision application has been filed on 26.06.2020. Thus, there is a

inordinate delay of 5 months and 22 days in filing the revision application beyond the normal period of limitation. The reason cited for the delay has been attributed to illness of the Applicant from High Blood Pressure which has not been substantiated with any medical documents and is therefore not acceptable as sufficient cause for the delay.

7. As per sub-section (2) of the Section 129DD of the Customs Act, 1962, an application under sub-section (1), i.e., a revision application can be made within 3 months from the date of communication of the order against which the application is being made. However, in terms of the proviso to sub-section (2) the Government may allow an application to be presented within a further period of 3 months if the Government is satisfied that the Applicant was prevented by 'sufficient cause' from presenting the application within the normal period of 3 months. In the conspectus of the facts and circumstances of the case, the Government is constrained to hold that the applicant has been unable to show sufficient cause as required under Section 129DD of the Customs Act, 1962. The revision application is thus rejected on grounds of limitation without traversing the merits of the case.

8. The revision application is rejected as barred by limitation.



(Shubhagata Kumar)
Additional Secretary to the Government of India

Smt. Barakathnisa Shamsudeen
D/o Sh. Shahul Hameed
234, Haja Nagar, Boothakeni
Chidambaram taluk, Cuddalore
Tamil Nadu -608001

Order No. 191 /24-Cus dated 11-09-2024

Copy to:

1. The Commissioner of Customs (Appeals-I), Chennai Airport & Air Cargo, 3rd floor, New Custom House, GST Road, Meenambakkam, Chennai – 600016
2. The Principal Commissioner of Customs, Commissionerate-I, Chennai-I (Airport), New Custom House, Meenambakkam, Chennai-600027

3. Sh. A.K Jayaraj, Advocate, New No. 234, Old No. 217, Thambu Chetty Street, I & II Floor, Chennai-600001.
4. PPS to AS (RA).
5. Guard file.
6. Spare Copy
7. Notice Board

Shailendra
11/9/24
ATTESTED
(शैलेन्द्र कुमार मीना)
(Shailendra Kumar Meena)
अनुभाग अधिकारी / Section Officer
वित्त मंत्रालय (राजस्व विभाग)
Ministry of Finance (Deptt. of Rev.)
भारत सरकार / Govt. of India
नई दिल्ली / New Delhi