

SPEED POST



F. No. 375/31/B/2021-R.A.
F. No. 375/32/B/2021-R.A.
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. 5/9/22

ORDER NO. 206-207/21-Cus dated 05-07-2022 of the Government of India, passed by Sandeep Prakash, Additional Secretary to the Government of India, under Section 129DD of the Customs Act, 1962.

SUBJECT : Revision Application filed under section 129DD of the Customs Act, 1962 against the Order-in-Appeal No. Commr/Appl/Delhi/Cus/12/2020-21 dated 16.06.2021 Commissioner of Customs (Appeals), New Customs House, Near IGI Airport, Delhi-110037.

APPLICANTS : 1. Sh. Haseen Ahmed, Delhi.
2. Sh. Mohd. Sameer, Delhi.

RESPONDENT : The Commissioner of Customs, Airport & General, New Delhi.

ORDER

Revision Application No. 375/31/B/2021-RA dated 01.07.2021 and Revision Application No. 375/32/B/2021-RA dated 01.07.2021 have been filed by Shri Haseen Ahmed, Delhi (hereinafter referred to as the Applicant-1) and Shri Mohd. Sameer, Delhi (hereinafter referred to as the Applicant-2) respectively, against the letter No. Commr/Appeal/Delhi/Cus/12/20-21, dated 16.06.2021 issued by the Office of Commissioner of Customs (Appeals), New Customs House, New Delhi. The Commissioner of Custom (Appeals) has, vide the impugned letter, returned the appeals filed by the Applicants herein against the Order-in-Original No. 291/JC/Adjn/2021 dated 15.03.2021, passed by the Joint Commissioner of Customs, IGI Airport, New Delhi, as non-maintainable as the mandatory pre-deposit was not made, as required in terms of Section 129E of the Customs Act, 1962.

2. Briefly stated, the Applicant-1 and 2 were to depart for Dubai from IGI Airport, New Delhi, on 10.12.2018. Based on a specific information, the Applicants were intercepted by the Customs Officer after they had crossed the immigration check. Upon inquiry as to whether they were carrying any foreign currency or any other contraband items, both replied in negative. Thereafter their checked in baggage was recalled, and they were again asked, whether they were in possession of any contraband item in their checked in hand and hand baggage, to which they again replied in negative. During the baggage search of Applicant-1, foreign currency amounting to US dollar 2,57,200/- equivalent to INR 1,80,16,860/- was recovered. Similarly, on the baggage search of Applicant-2 foreign currency amounting to US dollar 2,50,600/- equivalent to INR 1,75,54,530/- was recovered. Both the Applicants failed to produce any documentary evidence in support of the licit possession and legal export of the recovered foreign currency. In their separate statements dated 10.12.2018, the Applicants admitted recovery of the foreign currency from their possession and stated that the currency was handed over to them by one Shri Pappu, whom they had met through their old friend; that in return for carrying the foreign currency, they were to be paid Rs. 10,000/- each; and that they were friends and both were travelling with smuggled foreign currency. The original authority, vide the aforesaid Order-in-Original dated 15.03.2021, ordered

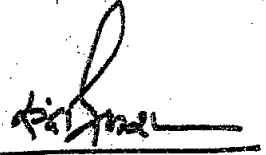
absolute confiscation of the seized foreign currency, under Section 113 of the Customs Act, 1962. Penalties of Rs. 40,00,000/- and Rs. 5,00,000/- each were also imposed on the Applicants. The appeals filed by the Applicants were returned, vide the impugned letter by the Office of the Commissioner (Appeals), as the mandatory pre-deposit of 7.5% of duty/penalty, as required in terms of Section 129E *ibid*, had not been made.

3. The revision applications have been filed, mainly, on the grounds that the Applicants are poor persons and are not in a position to deposit the mandatory pre-deposit due to their financial condition. Several submissions have been made on the merits of the case as well.

4. Personal hearing was fixed on 27.05.2022, 20.6.2022 and 04.07.2022. In the personal hearing held, in virtual mode, on 04.07.2022, Ms. Sangita Bhayana, Advocate appeared for both the Applicants and reiterated the contents of the RAs. She submitted that the Applicants are poor persons and that 03 months' time may be granted to make pre-deposit. No one appeared for the respondent department nor any request for adjournment has been received. Since sufficient opportunities have been granted, it is presumed that the department has nothing to add in the matter.

5. The Government has examined the matter carefully. The appeals filed by the Applicants herein have been returned by the office of the Commissioner (Appeals) as the same could not have been entertained because the mandatory pre-deposit of 7.5% of the duty /penalty, as required in terms of Section 129E of the Customs Act, 1962, had not been made. The mandatory nature of the pre-deposit and the fact that the pre-deposit had not been made, till the disposal of the appeal and even at this stage, is not disputed. The Applicants requested that they may be granted three months' time to make the pre-deposit due to their poor financial condition. The Government observes that the requisite pre-deposit was to be made before filing of appeal and the appeal papers were to be accompanied by proof thereof. In this case, this was not done. There is no authority in law to grant time as requested for to make the requisite pre-deposit, specifically when the appeals already stand disposed of. As such, there is no merit in the revision applications.

6. The revision applications are rejected.



(Sandeep Prakash)

Additional Secretary to the Government of India

To,

1. Sh. Haseen Ahmed,
S/o Naseer Ahmed,
R/o H. No. 2404,
Gali Rang Wali, Phatak Habsan Khan,
Tilak Bazar, Delhi-110006.
2. Sh. Mohd. Sameer,
S/o Mohd. Saeed,
R/o H. No. 2365,
Gali Nawab Wali, Khari baoli,
Tilak Bazar, Delhi-110006.

ORDER NO. 206-207/22 - Cus dated 5-7-2022

Copy to:-

1. The Commissioner of Customs, IGI Airport, Terminal-3, New Delhi,
2. The Commissioner of Customs (Appeals), New Customs House, Near IGI Airport, New Delhi-110037.
3. Ms. Sangita Bhayana, Advocate, Chamber No. 707, LCB-III, Delhi High Court, New Delhi-110003.
4. PA to AS(RA)
5. ~~Guard File.~~
6. Spare Copy.

ATTESTED



(लक्ष्मी राघवन)
(Lekshmi Raghavan)
अनुभाग अधिकारी / Section Officer
द्वितीय मंत्रालय (राजस्व विभाग)
Ministry of Finance (Deptt. of Rev.)
भारत सरकार / Govt. of India
नई दिल्ली / New Delhi