

**SPEED POST**



F. No. 380/12/B/2021-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... 7/7/22

Order No. 214/22-Cus dated 07-07-2022 of the Government of India passed by Shri Sandeep Prakash, Additional Secretary to the Government of India, under section 129DD of the Custom Act, 1962.

Subject : Revision Application under Section 129 DD of the Customs Act 1962 against the Order-in-Appeal No. 151-153/Cus/Apl/LKO/2021 dated 31.05.2021 passed by the Commissioner (Appeals), Customs, GST & Central Excise, Lucknow.

Applicant : Commissioner of Customs (Preventive), Lucknow.

Respondents : Sh. Surendra Kumar Gupta, Gorakhpur;  
Sh. Mahendra Kumar, Gorakhpur;  
Sh. Rajendra Kumar Gupta, Kolkata.

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**ORDER**

A Revision Application No. 380/12/B/2021-RA dated 31.08.2021 has been filed by the Commissioner of Customs (Preventive), Lucknow (hereinafter referred to as the Applicant) against the Order in Appeal No. 151-153/Cus/Apl/LKO/2021 dated 31.05.2021, passed by the Commissioner (Appeals), Customs, GST & Central Excise, Lucknow in respect of the appeals filed by Sh. Surendra Kumar Gupta, Gorakhpur (Respondent-1), Sh. Mahendra Kumar, Gorakhpur (Respondent-2) and Sh. Rajendra Kumar Gupta, Kolkata (Respondent-3). The Commissioner (Appeals) has upheld the order of the Additional Commissioner of Customs (Preventive), Lucknow, bearing no. 53/ADC/2020-21 dated 28.08.2020, ordering absolute confiscation of assorted foreign currency, equivalent to INR 18,22,452/-, under Section 113(d), 113(e), 113(h) and 113(i) of the Customs Act, 1962. However, the penalties imposed by the original authority, under Section 114 of the Customs Act, 1962 have been reduced to Rs.2,00,000/- on each of the Respondents. The penalty imposed on Respondent-2, under Section 117 of the Act *ibid*, has also been reduced to Rs.10,000/-.

2. The brief facts of the case are that the Respondent-2 was intercepted by the officers of DRI, on 23.04.2019, at Lal Bahadur Shastri International Airport, Varanasi when he was about to board international flight no. 6E97 for Bangkok. Upon search, assorted foreign currency equivalent to INR 18,22,452/-, concealed in the trolley bag carried by the Respondent-2, was recovered. The Respondent-2 in his statements dated 23.04.2019 and 16.07.2019, recorded under Section 108 of the Customs Act, 1962, admitted the concealment and recovery of assorted foreign currency concealed in the trolley bag and stated that the trolley bag concealed with assorted foreign currency, was handed over to him by Respondent-1 and, thus, did not belong to him. He also admitted that the confiscated foreign currency was to be delivered further to Respondent-3, at Bangkok. After detailed investigations, a Show Cause

Notice dated 19.09.2019 was issued to the Respondents herein leading to the aforesaid Orders of the authorities below.

3. The revision application is filed, mainly, on the ground that recovered foreign currency is 'prohibited goods' and in the facts and circumstances of the case, reduction in penalty ordered by the Commissioner (Appeals) is not acceptable.

4. A personal hearing, in virtual mode, was held on 06.07.2022. Sh. Ajay Mishra, ADC appeared for the Applicant and reiterated the contents of the RA. Sh. S.S. Arora, Advocate appeared for the Respondents and reiterated the contents of the written submissions dated 26.11.2021, 18.11.2021 and 26.11.2021 filed on behalf of the Respondents.

5. The Government has examined the matter carefully. Only issue that arises for consideration in the instant RA is whether the reduced amount of penalty ordered by the Commissioner (Appeals) is appropriate. The Government observes that the assorted foreign currency was attempted to be smuggled out by Respondent-2, by concealing the same in the trolley bag carried by him, at the instance of Respondent-1 to be handed over to Respondent-3. The Respondent-2 has already admitted that he was not the owner of the confiscated currency. After due consideration of all aspects, facts and circumstances of the case, the Government finds that the order of Commissioner (Appeals) does not merit revision in this respect.

6. In view of the above, the revision application is rejected.



(Sandeep Prakash)

Additional Secretary to the Government of India

The Commissioner of Customs (Preventive),  
5<sup>th</sup> & 11<sup>th</sup> Floor, Kendriya Bhawan,  
Sector-H, Aliganj, Lucknow, UP

Order No. 214 /22-Cus dated 07-07-2022

Copy to:

1. The Commissioner (Appeals), Customs, GST & Central Excise, 3/194, Vishal Khan, Gomati Nagar, Lucknow, UP.
2. The Additional Commissioner of Customs (Preventive), 5<sup>th</sup> & 11<sup>th</sup> Floor, Kendriya Bhawan, Sector-H, Aliganj, Lucknow, UP.
3. Sh. Surendra Kumar Gupta, S/o Sh. Ramhit Gupta, R/o Hata Bazar, Gagaha, Gorakhpur.
4. Sh. Mahendra Kumar, S/o Sh. Ram Vilas Choudhari, R/o 499-D, Basantpur (near Shiv Tandan Mandir), PO-Geeta Press, Gorakhpur-273001.
5. Sh. Rajendra Kumar Gupta, S/o Sh. Ramhit Gupta, R/o 20/01, Plot No.100, 4<sup>th</sup> floor, Sahapur Colony, Kolkata, WE-700053.
6. Sh. S. S. Arora, Advocate, B-1/71, Safdarjung Enclave, New Delhi – 110029.
7. PA to AS(RA).
8. Guard file.
9. Spare Copy.

*G. Bhatta*  
07/07/22

ATTESTED

**गुलशन भाटिया / Gulshan Bhatta**  
**अधीक्षक / Superintendent (RA Unit)**  
**कारण विभाग / Department of Revenue**  
**वित्त विभाग / Ministry of Finance**  
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