

SPEED POST



F. No. 375/71/B/2021-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. 12/07/22

Order No. 222 /22-Cus dated 12-07-2022 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 129DD of the Customs Act 1962 against the Order-in-Appeal No. CCA(A)Cus/D-I/Air/887/2019-20 dated 25.02.2020 passed by the Commissioner of Customs (Appeals), NCH, New Delhi

Applicant : Ms. Yasmin Ajra, Faridabad.

Respondent : The Commissioner of Customs, IGI Airport, New Delhi.

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ORDER

A Revision Application No. 375/71/B/2021-RA dated 10.12.2021 has been filed by Ms. Yasmin Ajra, Faridabad (hereinafter referred to as the Applicant) against the Order-in-Appeal No. CCA(A)Cus/D-I/Air/887/2019-20 dated 25.02.2020 passed by the Commissioner of Customs (Appeals), New Delhi. The Commissioner (Appeals) has rejected the appeal filed by the Applicant against the Order-in-Original, bearing no. 289/2017-18 dated 20.11.2017, passed by the Assistant Commissioner of Customs, IGI Airport, New Delhi.

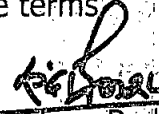
2. The brief facts of the case are that the Applicant arrived, on 21.09.2017, at IGI Airport, New Delhi from Riyadh and was intercepted near the exit gate after she had crossed the Customs Green Channel. Her baggage search resulted in the recovery of one gold bar, weighing 100 grams and totally valued at Rs. 2,81,874/-. The Applicant, in her statement dated 21.09.2017, tendered under Section 108 of the Customs Act, 1962, admitted that she had crossed the Green Channel and the recovery of above-mentioned gold items from her possession. The original authority, vide the aforesaid Order dated 20.11.2017, held the seized gold to be liable to confiscation under Section 111(d), 111(j), 111(l) & 111(m) of the Customs Act, 1962 but in lieu gave an option to redeem the same on payment of fine of Rs. 56000/- along with applicable duty. A penalty of Rs. 56,000/- was also imposed on the Applicant, under Sections 112 of the Act, ibid. The appeal filed by the Applicant herein has been rejected, as barred by limitation, vide the impugned Order-in-Appeal.

3. The revision application has been filed, mainly, on the grounds that the delay in filing the appeal before the Commissioner (Appeals) was caused as the Applicant was not in the country during the relevant time of filing the appeal.

4. Personal hearing, in virtual mode, was held on 06.07.2022. Sh. S.S. Arora, Advocate appeared for the Applicant and submitted that the appeal could not be filed before Commissioner (Appeals) within normal period of limitation as she was at the relevant time staying abroad. He requested one weeks' time to submit evidence in this regard. Applicant, vide letter dated 09.07.2022, submitted the copies of passport evidencing that she was not in country during the relevant period of filing the appeal. No one appeared for the Respondent department nor any request for adjournment has been made. Therefore, it is presumed that the department has nothing to add in the matter.

5. On examination of the relevant case records, the Government observes that the appeal before the Commissioner (Appeals) was filed on 16.02.2018, though the Order appealed against was issued on 20.11.2017. As per sub-section (1) of Section 128 of the Customs Act, 1962, an appeal before the Commissioner (Appeals) can be made within 60 days from the date of communication to the appellant of the order against which the appeal is being made. However, proviso to said sub-section (1) provides discretion to the Commissioner (Appeals) to allow an appeal to be presented within a further period of 30 days, if the Commissioner (Appeals) is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the normal period of 60 days. In this case, the OIO was issued on 20.11.2017 and would have been received at the Applicant's address after 3-4 days. Thus, there is no doubt that the appeal was filed after the normal period of limitation but within the condonable period of 30 days. Applicant has contended that the delay in filing the appeal was due to the fact that during the relevant period she was not in the country. To substantiate her claim, the copies of relevant sheets of her passport have been submitted, which indicate that she had left country on 24.11.2017, i.e., around the time when the OIO would have reached her address. In this background, the Government finds that there was a sufficient cause for delay in filing of appeal and, therefore, the delay ought to have been condoned. As such, the Government condones the delay in filing the appeal before the Commissioner (Appeals) and remands the case to the Commissioner (Appeals) for decision afresh, on merits.

5. The revision application is allowed by way of remand, in above terms



(Sandeep Prakash)

Additional Secretary to the Government of India

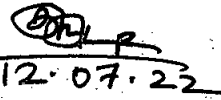
Ms. Yasmin Ajra,
H.No. 407, Ground Floor,
I.P. Colony, Sector 30/33, Faridabad,
Haryana 121003

Order No. 222/22-Cus dated 12-07-2022

Copy to:

1. The Commissioner of Customs (Appeals), New Customs House, New Delhi-110037
2. The Commissioner of Customs, IGI Airport, New Delhi-110037
3. Sh. S.S. Arora, Advocate, B1/71, Safdarjung Enclave, New Delhi 110029
4. PA to AS(RA).
5. Guard file.
6. Spare Copy.

ATTESTED



12-07-22

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