

SPEED POST



F. No. 375/06/B/2022-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. 15/12/22

Order No. 230/22-Cus dated 15-07-2022 of the Government of India passed by Sh. Sandeep Prakash, 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.CC(A)Cus/D-I/Air/3869/2021-22 dated 01.11.2021, passed by the Commissioner of Customs (Appeals), New Customs House, Near IGI Airport, Delhi-110037

Applicants : Sh. Manjit Singh, Gurugram Haryana.

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

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ORDER

Revision Application No. 375/06/B/2022-RA dated 02.02.2022 has been filed by Sh. Manjit Singh, Gurugram, (hereinafter referred to as the Applicant) against the Order-in-Appeal No. CC(A)Cus/D-I/Air/3869/2021-22 dated 01.11.2021, passed by the Commissioner of Customs (Appeals), New Customs House, New Delhi. The Commissioner (Appeals) has rejected the appeal filed by the Applicant herein against the Order-in-Original, bearing no. 191/Adjn/2019 dated 22.07.2019, passed by the Additional Commissioner of Customs, IGI Airport, New Delhi, as time barred.

2. The brief facts of the case are that a passenger, namely, Sh. Yu Sheng Huang, a Chinese national and the Applicant arrived on 26.07.2018, at the IGI Airport from Bangkok. Both approached the Red Channel and declared three gold bars totally weighing 3000 Gms, valued at Rs. 84,06,540/-, carried by the passenger and requested for re-export of the same. For further investigations, the above-named passenger & Applicant were handed over to Shift Customs Preventive Officers and during investigations, it was revealed that the recovered gold bars were handed over to the passenger by another passenger, namely, Sh. Lu Po Chang alias Sh. Wo Zheng Jing alias Sh. Ken with the instructions to carry them to India and also informed that one Sardar Ji Sh. Manjit Singh i.e., the Applicant would come near the Duty-Free Shop of T-3, IGI Airport to collect/ help him to clear the gold through Green Channel without payment of Customs duty. For identification purpose, the photograph of the Applicant was also shown by Sh. Lu Po Chang alias Sh. Wo Zheng Jing alias Sh. Ken to the passenger, in his mobile phone. At Delhi airport, it was disclosed by the Applicant to the passenger that due to heavy checking at Green Channel, the gold bars brought by the passenger were required to be declared at Red Channel with the request to re-export the same. The Adjudicating Authority, vide the above-mentioned Order-in-Original dated 22.07.2019, ordered absolute confiscation of seized gold bars under Section 111(d), 111(i), 111(j), 111(l), 111(m) and 111(o) of the Customs Act, 1962 and imposed penalty of Rs. 16,82,000/- on the Applicant under Section 112 and 114AA of the Customs Act, 1962. Aggrieved, Applicant filed an appeal before the Commissioner (Appeals) which was rejected as time barred.

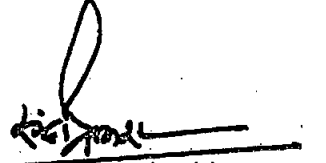
3. The revision application has been filed canvassing that the Applicant could not file the appeal on time as the impugned OIO was received by his servant on 03.08.2019 however the same was handed over to him (i.e. the Applicant) only on 20.10.2019 when he enquired about any envelop received through post. Several submissions have been made on the merits of the case as well.

4. Personal hearing was held on 13.07.2022, in virtual mode. Sh. Prem Ranjan Kumar, Advocate, appeared for the Applicant and submitted that the appeal was rejected by the Commissioner (Appeal) as delay was not condoned. He stated that the OIO was received by the servant of the Applicant who did not apprise the Applicant in time, leading to delay. Hence, the delay is for bonafide reasons and ought to have been condoned. Sh. Mahender Singh, Superintendent, who appeared for the department, had nothing to add.

5. The Government has examined the matter. It is observed that, in terms of Section 128 of the Customs Act, 1962, the appeal before the Commissioner (Appeals) can be filed within a period of sixty days. The Commissioner (Appeals) can condone a delay upto thirty days, on sufficient cause being shown. It is further observed that the appeal of the Applicant was rejected by the Commissioner (Appeals) for the reason that sufficient cause had not been shown by the Applicant for delayed filing of appeal. On the other hand, it is claimed by the Applicant that the delay was due to the reason that the OIO was received by servant of the Applicant who did not apprise the Applicant in time leading to delay. In fact, in the revision application it is stated that "the Impugned order of adjudication was received by the servant of the appellant on 03.08.2019 however, the same was handed over by the servant working at his residence on 20.10.2019 only when the appellant enquired about any envelop received through post." Thus, it is clear that the OIO was admittedly received on 03.08.2019, i.e., within 3 days of its date of issue i.e. 31.07.2019. It is also evident from the averment made that the Applicant himself inquired about "any envelop received through post" indicating thereby that the Applicant was expecting such an envelope. Further, the version of the Applicant is not supported by any say of the

servant. In the light of these facts, the Government does not find it to be a fit case to interfere with the discretion exercised by the Commissioner (Appeals) in not condoning the delay.

6. The revision application is rejected.



(Sandeep Prakash)

Additional Secretary to the Government of India

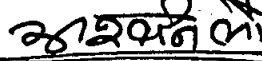
Sh. Manjit Singh,
S/o Sh. Saroop Singh,
R/o Mahal's Farma,
Plot No.1, Defence Colony,
Bhondsi, Gurugram, Haryana-122102.

Order No. 230/22-Cus dated 15-07-2022

Copy to:

1. The Commissioner of Customs, Airport & General, IGI Airport, New Delhi-110037.
2. The Commissioner of Customs (Appeals), New Custom House, New Delhi-110037.
3. Additional/Joint Commissioner of Customs, IGI Airport, Terminal-3, New Delhi-110037.
4. Sh. Prem Ranjan Kumar, Advocate, L.G.F.-6/33-33A, Vikram Vihar, Lajpat Nagar-IV, New Delhi-110024.
5. PA to AS(RA).
6. ~~Guard File.~~
7. Spare copy

ATTESTED



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