

F. No. 375/65/B/21-RA
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SPEED POST



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GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

14, HUDCO VISHALA BLDG., B WING
6th FLOOR, BHIKAJI CAMA PLACE,
NEW DELHI-110066

Date of Issue.....25/7/22.....

Order No. 241-242/22-Cus dated 25-7-2022 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-Original No. 02/Adj./MK/Commr/2021 dated 15.06.2021, passed by the Commissioner of Customs (Delhi Airport), IGI Airport, T-3, New Delhi-110037

Applicants : 1. Sh. Anas K Abdulla, Kasargod Kerala.
2. Ms. Nilofarbahen Yatin Kumar Prajapati, Surat.

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

Two Revision Applications, bearing Nos. 375/65/B/21-RA and 375/66/B/21-RA both dated 23.11.2021, have been filed by Sh. Anas K Abdulla, Kasargod Kerala (hereinafter referred to as the Applicant-1), and Ms. Nilofarbahen Yatin Kumar Prajapati, Surat (hereinafter referred to as the Applicant-2), against the Order-in-Original No. 02/Adj./MK/Commr/2021 dated 15.06.2021, passed by the Commissioner of Customs, IGI Airport, New Delhi. Vide the aforesaid OIO dated 15.06.2021, gold chain 66 gms, valued at Rs. 2,25,540/-, recovered from the Applicant-1, were confiscated absolutely, under Section 111(d), 111(i), 111(j), 111(l), 111(m) & 111(o) of the Customs Act, 1962. Penalties of Rs.26,000/- and Rs.2,25,540/- were imposed on Applicant-1 under Section 112(a), 112(b) and 114AA of the Customs Act, 1962. Further, demand of customs duty amounting to Rs. 51,74,909/- on the imported goods, valued at Rs. 1,34,41,324/-, smuggled by the Applicant-1 during his past visits was also confirmed under Section 28(4) of the Customs Act, 1962 alongwith interest at the applicable rates, under Section 28AA of the act ibid. Penalty of Rs. 51,74,909/-, equivalent to amount of customs duty evaded was also imposed, under Section 114A of the Customs Act, 1962. Vide the above OIO, gold bars weighing 1868 gms, valued at Rs. 64,09,141/-, recovered from the Applicant-2, were confiscated absolutely, under Section 111(d), 111(i), 111(j), 111(l), 111(m) & 111(o) of the Customs Act, 1962. Penalties of Rs.6,41,000/- and Rs. 64,09,141/- were also imposed on Applicant-2 under Section 112(a), 112(b) and 114AA of the Customs Act, 1962.

2. Brief facts of the case are that on the basis of specific intelligence, the Customs officers intercepted the Applicants, who were domestic passengers and travelling from Pune to Delhi and carrying the confiscated goods. The confiscated gold bars were concealed under the seat of the aircraft and retrieved by Applicant-2, to hide the same in the cavity of the washroom of aircraft. Thereafter, the Applicant-1 collected the said gold bars from the washroom and concealed the same in her garments which were recovered from her during search proceedings. Two gold chain were also recovered from the possession of Applicant-1. The subject goods were confiscated absolutely and penalties, as mentioned in Para 1, were imposed. (15)

3. The instant revision applications have been filed, mainly, on the grounds that the Applicants were not aware that gold couldn't be carried to the domestic destinations; that the request of Applicants were not taken into consideration to effect that the gold did not belong to them; that the gold may be allowed to be redeemed in terms of Section 125 of the Customs Act, 1962; and that token penalty may be imposed.

4. A personal hearing, in virtual mode, was held on 22.07.2022. Ms. Kanika Goswami, Advocate appeared for the Applicants and reiterated the contents of the respective RAs. Upon being pointed out that the subject RAs have been filed against Order-in-Original passed by the Commissioner of Customs and, therefore, the RAs

are not maintainable under Section 129DD, Ms. Goswami had nothing to say in the matter. Sh. Mahender Singh, Supdt. appeared for the department has nothing to add.

5. The Government has carefully examined the matter. In terms of Section 129DD of the Customs Act, 1962, "The Central Government may, on the application of any person, aggrieved by any order passed under section 128A, where order is of the nature referred to in the first proviso to sub-section (1) of section 129A, annul or modify such order." Thus, a revision application is maintainable, only, against an order passed under section 128A. An order, under Section 128A, is passed by Commissioner (Appeals) to dispose of appeal filed under section 128. As such, subject revision applications, which are filed against an order passed by the Commissioner of Custom, in his original capacity, are not maintainable.

6. In view of the above, the subject revision applications are dismissed as not maintainable.



(Sandeep Prakash)

Additional Secretary to the Government of India

1. Sh. Anas K Abdulla,
S/o Sh. Abdulla K,
R/o Shareef Manzil, Kallangi Mogral,
Puthur, Kasargod, Kerala-671351.
2. Ms. Nilofarbahen Yatin Kumar Prajapati,
D/o Sh. Anvar Ali,

R/o Room No.4, Daruwala Building,
Behind Agiyari Mohalla, Adajan Gam, Surat-395009.

Order No. 241-242/22-Cus dated 25-7-2022

Copy to:

1. The Commissioner of Customs, IGI Airport, T-3, New Delhi-110037.
2. Ms. Kanika Goswami, Advocate, WZ/258 A, Street No.4, Sri Nagar, Rani Bagh, Delhi-110034.
3. PA to AS(RA).
4. ~~Guard File.~~
5. Spare Copy

ATTESTED

22/07/22

अश्वनी कुमार ली / Ashwani Kumar Lali
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