

SPEED POST



F. No. 372/11/B/2020-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...25/1/22

Order No. 25/22-Cus dated 25-01-2022 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 129 DD of the Customs Act 1962 against the Order-in-Appeal No. KOL/CUS(Airport)/KA/134/D/2020 dated 18.03.2020, passed by the Commissioner of Customs (Appeals), Kolkata.

**Applicant** : Sh. Jai Singh, Maharajganj (U.P).

**Respondent** : The Commissioner of Customs (Airport & Admn.), Kolkata.

**ORDER**

A Revision Application No. 372/11/B/2020-RA dated 30.07.2020, has been filed by Sh. Jai Singh, Maharajganj (U.P.) (hereinafter referred to as the Applicant) against the Order-in-Appeal No. KOL/CUS(Airport)/KA/134/D/2020 dated 18.03.2020, passed by the Commissioner of Customs (Appeals), Kolkata. The Commissioner (Appeals) has upheld the Order-in-Original, bearing no. 42/2018 JC dated 13.02.2018, passed by Joint Commissioner of Customs, NSCBI Airport, wherein USD 9,500/-, (convertible value-Rs. 6,05,150/-), concealed in the folds of the bed sheets, recovered from the Applicant, were absolutely confiscated under Sections 113(d), 113(e) & 113(h) of the Customs Act, 1962 read with Section 47 of Foreign Exchange Management (Export & Import of Currency), Regulations, 2015. Besides, a penalty of Rs. 6,05,150/- was also imposed by the original authority on the Applicant, under Section 114 of the Customs Act, 1962, which has been maintained in OIA.

2. Brief facts of the case are that the Applicant was scheduled to depart for Bangkok, on 13.11.2017, from NSCBI Airport, Kolkata and was intercepted by customs officers while proceeding for security check after completion of immigration formalities. When asked specifically about his carrying any Indian/foreign currency beyond permissible limit, the Applicant

replied in negative. On search of his baggage, USD 9,500/-, in denomination of USD 100/-, concealed in the folds of the bed sheet kept inside his baggage, were recovered which were seized under Section 110 of the Customs Act, 1962. The total value of the recovered foreign currency in convertible Indian rupees was Rs. 6,05,150/-. The Applicant, in his statement dated 13.11.2017, tendered under Section 108 of the Customs Act, 1962, confessed that the recovered foreign currency did not belong to him; that it was handed over to him by some unknown person to hand over the same to another unknown person at Bangkok for a consideration of Rs. 5000/-; and that he had no objection if the said currency is disposed of by the department. The original authority confiscated absolutely the said currency and imposed a penalty of Rs. 6,05,150/- on the Applicant vide OIO dated 13.02.2018. Aggrieved, the Applicant filed an appeal before the Commissioner (Appeals), who, vide the impugned OIA has rejected it.

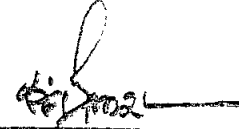
3. The revision application has been filed canvassing that the foreign currency is not a prohibited item and release of the same should be allowed on payment of redemption fine under Section 125 of the Customs Act; and that the penalty imposed should be reduced.

4. Personal hearing, in virtual mode, was held on 24.01.2022. Sh. S. S. Arora, Advocate appeared for the Applicant and submitted that the Applicant was admittedly carrying FC for another person. Therefore, at this stage, his request is that the penalty may be reduced. Sh. Jitendra Kumar, Superintendent appeared for the Respondent department and supported the orders of the lower authorities. He also submitted that the Applicant is a repeat offender and hence heavy penalty is merited. The details of the previous cases involving the Applicant at the Kolkata Airport have also been submitted.

5. The Government has carefully examined the matter. The only issue pleaded before the Government, at this stage, is the quantum of penalty. The original authority has imposed a penalty of Rs. 6,05,150/- which is equal to convertible value of the foreign currency absolutely confiscated. In normal course, the quantum of penalty imposed will be considered to be highly excessive, specially as the foreign currency has been absolutely confiscated. However, it has been brought on record that the Applicant herein was apprehended in a case of smuggling of gold valued at Rs. 23,95,947/-, on 09.07.2014 and a penalty of Rs. 2,30,000/- was imposed on him, which has been upheld in appeal. Even subsequent to the present case, he has been again found involved in smuggling of foreign currency amounting to

Rs. 13,48,075/-, on 16.02.2018. The later case is stated to be under de-novo adjudication with the original authority. In this background, the Government does not find any grounds to interfere with the penalty imposed.

6. The revision application is rejected.



(Sandeep Prakash)

Additional Secretary to the Government of India

Sh. Jai Singh,  
S/o Sh. Ramdhani Singh,  
Village – P.O. Maulaganj Paniyara,  
Maharajaganj, Uttar Pradesh – 273301.

Order No. 25/22-Cus dated 28/01-2022

Copy to:-

1. The Commissioner of Customs, Airport & Admn., 15/1, Strand Road, Custom House, Kolkata – 700001.
2. The Commissioner of Customs (Appeals), 15/1, Strand Road, Custom House, Kolkata – 700001.
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



(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