

SPEED POST



**F. No. 375/59/B/2019-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...06/12/21.

Order No. 275/21-Cus dated 06-12-2021 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-1/Airport/244/2018 dated 29.08.2018 passed by the Commissioner of Customs (Appeals), New Delhi.

Applicant : Sh. Jaskaran Singh Batra, New Delhi

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

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ORDER

A Revision Application No. 375/59/B/2019-RA dated 21.10.2019 *along with application for condonation delay*, has been filed by Sh. Jaskaran Singh Batra, New Delhi (hereinafter referred to as 'the Applicant') against the Order-in-Appeal No. CC(A)Cus/D-1/Airport/244/2018 dated 29.08.2018 passed by the Commissioner of Customs (Appeals), New Delhi. The Commissioner (Appeals) has upheld the Order-in-Original No. 91/JC/US/2016 dated 31.03.2016, passed by the Joint Commissioner of Customs, IGI Airport, New Delhi, wherein six (06) gold bars, kept in the underwear worn by the Applicant, weighing 457.80 Grams valued at Rs. 10,84,357/-, were confiscated absolutely under Section 111(d), 111(i), 111(j), 111(l) and 111(m) of the Customs Act, 1962. A penalty of Rs. 3.50 Lakh was also imposed on the Applicant under Section 112(a) and 114AA of the Customs Act, 1962, which has been maintained in appeal.

2. Brief facts of the case are that the Applicant arrived, on 04.06.2014, at IGI Airport, New Delhi from Bangkok. He was intercepted by the Customs Officers near the exit gate of Arrival Hall after he had crossed the Green Channel. In his Customs Declaration Form, he had not declared anything in Column No. 9 (Total Value of the goods imported) and Column No. 10(ii) & (iii). On personal search, six (06) gold bars, were recovered. The Applicant, in his statement dated 04.06.2014, tendered under Section 108 of the Customs Act, 1962, admitted the recovery of gold bars from his underwear. He revealed that he had purchased the gold bars and attempted to clear the same without payment of duty for pecuniary motive. The Applicant, in his subsequent statement dated 16.06.2014, reiterated the contents of his earlier statement dated 04.06.2014. The offending goods were confiscated absolutely by the original authority, vide Order-in-Original dated 31.03.2016. Penalty of Rs. 3.50 Lakh was also imposed on the Applicant. Aggrieved, the Applicant filed an appeal before the Commissioner (Appeals), who vide the impugned Order-in-Appeal dated 29.08.2018, rejected the appeal.

3. The instant Revision Application has been filed, mainly, on the grounds that import of gold is not prohibited; that the gold was kept in pocket of his trousers and not in underwear and that mere non-declaration of gold is not smuggling. It is prayed that the Applicant be allowed to redeem/re-export the gold; that Customs duty @ 10.3% may be charged as the Applicant is an eligible passenger and token penalty be imposed.

4. Personal hearing was held on 03.12.2021, in virtual mode. Sh. D. S. Chadha, Advocate appeared for the Applicant and reiterated the contents of the RA. Upon being pointed out that the impugned OIA was admittedly received by the Counsel of the Applicant on 16.09.2018 whereas the RA has been filed on 21.10.2019, i.e., much beyond the period of limitation, the Counsel submitted that the Applicant should not be made to suffer for the dereliction of his previous counsel. The departmental representative supported the orders of the lower authorities.

5. On examination of the relevant case records, it is observed that the impugned Order-in-Appeal dated 29.08.2018 was admittedly received by the Applicant on 16.09.2018, i.e., within 18 days from the date of issue. This position is stated by the Applicant himself in Column 5 of Customs Form No. C.A.-8. Therefore, the instant revision application has been filed on 21.10.2019, after a period of more than 13 months from the date of receipt, i.e., 16.09.2018. [As per sub-section (2) of the Section 129DD of the Customs Act, 1962, an application under sub-section (1), i.e., revision application can be made within 3 months from the date of communication of the order against which the application is being made. However, proviso to said sub-section (2) provides discretion to the Government to allow an application to be presented within a further period of 3 months if the Government is satisfied that the Applicant was prevented by sufficient cause from presenting the application within the normal period of 3 months. In the present case, the revision application has been filed much beyond

the condonable period of 03 months. Hence, the Government acting as a statutory authority under Section 129DD of the Customs Act, 1962, cannot condone this delay, which is beyond the statutorily provided condonable period.

6. The revision application is rejected as barred by limitation.]


(Sandeep Prakash)

Additional Secretary to the Government of India


Sh. Jaskaran Singh Batra,
C/o Sh. D. S. Chadha, Advocate,
92, GF, Block V, Eros Garden,
Faridabad, - 121009.

Order No. 275 /21-Cus dated 06-12-2021

Copy to:

1. The Commissioner of Customs, (A&G), New Customs House, Near IGI Airport, New Delhi - 110037.
2. The Commissioner of Customs (Appeals), New Customs House, Near IGI Airport, New Delhi - 110037.
3. Sh. D. S. Chadha, Advocate, 92, GF, Block V, Eros Garden, Faridabad, - 121009..
4. PA to AS(RA).
- ✓ 5. Guard File.
6. Spare Copy.

ATTESTED


(लक्ष्मी राघवन)
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अनुभाग अधिकारी / Section Officer
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Ministry of Finance (Deptt. of Rev.)
भारत सरकार, Ministry of India
New Delhi