

SPEED POST



F. No. 375/23/B/2022-RA  
F. No. 375/24/B/2022-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 23/08/22

Order No. 277-278/22-Cus dated 23-08-2022 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 No. Commr/Appeal/Delhi/Cus/12/2020-21 dated 31.03.2022, and Commr/Appeal/Delhi/Cus/12/2020-21 dated 15.03.2022 passed by the office of Commissioner of Customs (Appeals), Delhi.

Applicant : 1. Sh. Ifikar Ahmed, Delhi.  
2. Sh. Mohsin Ahmed, Delhi.

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

---

**ORDER**

Two Revision Applications bearing Nos: 375/23/B/2022-RA and 375/24/B/2022-RA both dated 23.05.2022 have been filed by Sh. Iftikar Ahmed, Delhi (hereinafter referred to as the Applicant-1) and Sh. Mohsin Ahmed, Delhi, respectively ( hereinafter referred to as the Applicant-2) against the Orders Nos. Commr/Appeal/Delhi/Cus/12/2020-21 dated 31.03.2022 and Commr/Appeal/Delhi/Cus/12/2020-21 dated 15.03.2022, issued by the office of Commissioner of Customs (Appeals), New Delhi, vide which the appeals filed by the Applicants herein against the Order-in-Original No. 259/Adj./Jyotiraditya/JC/2021 dated 16.12.2021, passed by the Joint Commissioner of Customs, IGI Airport, New Delhi, have been returned as non-maintainable, on the grounds that the Applicants herein did not make the mandatory pre-deposit of 7.5%, as per Section 129E of the Customs Act, 1962.

2. Briefly stated, the Applicants herein, arrived at the IGI Airport, New Delhi, on 19-20.09.2019, from Dubai. They were intercepted by the Customs Officers near the exit gate of the Customs arrival hall after they had walked through the Green Channel. Upon personal search and search of baggage of Applicant - 1, 200 yellow metal cylindrical nieces (192 of medium size and 8 of smaller size), totally weighing 1180 grams, concealed in the beads of the Necklaces/mala, and valued at Rs. 54,70,830/-, were recovered from the Applicant-1 herein. However, during the personal and baggage search of the Applicant 2 nothing objectionable was found. Applicant-1 in his statement dated 20.09.2020, recorded under Section 108 of the Customs Act, 1962, admitted the recovery of gold items. He further stated that the gold was brought by him along with his son (Applicant-2) on behalf of one Sh. Junaid. They were paid Rs. 50,000/- each by Sh. Junaid along with flight tickets to and fro journey and they did not have any licit documents/invoices for the said recovered gold. After completion of investigations, a show cause notice dated 15.03.2021 was issued to the Applicants herein and three other persons. The original authority, vide the aforesaid Order-in-Original dated 16.12.2021, ordered for absolute confiscation of seized gold

under Section 111(d), 111(i), 111(j), 111(I), 111(m) , 111(n) & 111(o) of the Customs Act, 1962. A penalty of Rs 5,50,000/- under Section 112 (a), (b) and penalty of Rs. 5,50,000/- under Section 114AA of the Customs Act, 1962, was also imposed on the Applicant-1. Further penalty of Rs 12,37,500/- under Section 112 (a), (b) and penalty of Rs. 5,50,000/- under Section 114AA of the Customs Act, 1962, was also imposed on the Applicant-2. The Commissioner (Appeals) has rejected the appeals filed by Applicants, as above.

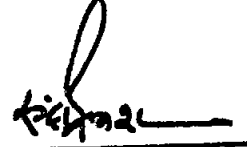
3. The revision application has been filed, mainly, on the grounds that the appeals were rejected, merely, on technical ground, i.e., of not making pre-deposit; that Applicants are poor and not in a position to make pre-deposit. Some other averments have also been made.

4. Personal hearing, in virtual mode, was held on 22.08.2022. Ms. Sangita Bhayana, Advocate appeared for the Applicants and requested that some time may be given for making the pre-deposit; and that matter may be remanded to the Commissioner (Appeals) subject to pre-deposit being made. Sh. Mahender Singh, Superintendent appeared for the Respondent department and stated that the Applicants ought to have made the pre-deposit as per law.

4. The Government has examined the matter carefully. The Commissioner (Appeals) has returned the appeals on the ground that the Applicants did not make mandatory pre-deposit of 7.5%, as required in terms of Section 129E of the Customs Act, 1962. At this stage, it is not disputed that the pre-deposit ought to have been made for the appeal to have been entertained by the Commissioner (Appeals). Only plea is that the matter should, now, be remanded back to Commissioner (Appeals) for decision on merits subject to the pre-deposit being made. It is observed that the order of Commissioner (Appeals) is more than five months old and the Applicants were having sufficient time to make the pre-deposit, but the same was not done. Even at this late stage, the Applicants have not sought a remand after making the pre-deposit but have made pre-deposit conditional to the remand order being passed. There is no

explanation as to why the Applicants could not approach with this plea after making the pre-deposit when they are admittedly, now, inclined to do so. In the circumstances, the request made by Applicants does not merit consideration.

6. In view of the above, the revision applications are rejected.



(Sandeep Prakash)

Additional Secretary to the Government of India


1. Sh. Iftikar Ahmed,  
R/o H. No. 1141, Haveli Sadar Sadoor,  
Matia Mahal, Jama Masjid,  
Delhi 110006
2. Sh. Mohsin Ahmed,  
R/o H. No. 1141, Haveli Sadar Sadoor,  
Matia Mahal, Jama Masjid,  
Delhi 110006

Order No. 277-278/22-Cus dated 23-08-2022

Copy to:-

1. The Commissioner of Customs, IGI Airport, Terminal-3, New Delhi-110037
2. The Commissioner of Customs (Appeals), New Customs House, Near IGI Airport, New Delhi-110037
3. Ms. Sangita Bhayana, Advocate, Chamber No. 707, LCB-III, Delhi High Court, New Delhi-110003.
4. PS to AS(RA).
5. Guard File.
6. Spare Copy.

ATTESTED

  
श्री अश्वनी कुमार लो / Ashwani Kumar Lau  
अधीक्षक / Superintendent (R.A. Unit)  
राजस्व विभाग / Department of Revenue  
वित्त विभाग / Ministry of Finance  
Room No. 608, 6th Floor, B-Wing  
14, Metro Vistala Building, New Delhi-110058