

SPEED POST



F. No. 372/14/B/2020-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... 28/01/22

Order No. 28/22-Cus dated 27-01-2022 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)/AKA/349/2020 dated 19.06.2020 passed by the Commissioner of Customs (Appeals), Kolkata.

Applicant : Sh. Chandra Shekhar Singh, Kolkata.

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

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ORDER

A Revision Application No. 372/14/B/2020-RA dated 15.10.2020 has been filed by Sh. Chandra Shekhar Singh, Kolkata (hereinafter referred to as the Applicant) against the Order-in-Appeal No. KOL/CUS(AIRPORT)/AKA/349/2020 dated 19.06.2020 passed by the Commissioner of Customs (Appeals), Kolkata, vide which the Commissioner (Appeals) has upheld the Order-in-Original ASA No. 1744/2017 dated 04.05.2017, passed by the Deputy Commissioner of Customs, NSCBI Airport, Kolkata.

2. Briefly stated, the Applicant arrived at NSCBI Airport, Kolkata, on 30.03.2017, from Bangkok by Flight No. TG-313. He reported at Red Channel Counter for clearance of his baggage. The baggage consisted of Ladies undergarments, Johnsons & Johnsons baby Cream and Pain Balm Oil, in commercial quantity, valued Rs. 85,290/-. The original authority, vide ASA dated 04.05.2017, confiscated the detained goods under Section 111(d) of the Customs Act, 1965 with an option to redeem the goods on payment of fine of Rs. 22,000/- along with duty amounting to Rs. 30,748. A Penalty of Rs. 10,000/- was also imposed on the Applicant under Section 112 of the Act, *ibid*. The appeal filed by the Applicant herein was rejected by the Commissioner (Appeals) due to non-deposit of mandatory pre-deposit amount, vide OIA No. KOL/CUS(AIRPORT)AA/1380/2017 dated 18.10.2017. The matter was, however remanded to the Commissioner (Appeals) for consideration afresh, vide GOI Order No. 51/2019-Cus dated 21.11.2019. The OIA impugned herein has been passed in pursuance of GOI Order dated 21.11.2019.

3. The revision application has been filed, mainly, on the grounds that item No. 2 of Plastic Bag and items Nos. 4, 5 & 6 of Black Zipper Bag valued at Rs. 57,600/-, all are expired due to long detention and are of No Commercial Value. Balance goods valued at Rs. 27,690 may be allowed to cleared as per Normal Baggage Rules on payment of duty; that the Redemption Fine of Rs. 22,000/- and PP of Rs.

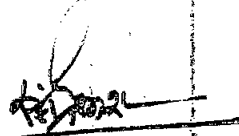
10,000/- may be waived; that the delay of 3 years on the part of the Applicant had happened to be due to pending Appeal and Revisions Application.

4. Personal hearing was held, in virtual mode, on 27.01.2022, Sh. Punam Chand Jain, Consultant appeared for the Applicant and reiterated the contents of RA and the written submissions filed by email on 27.01.2022. None appeared for Respondent department nor any request for adjournment has been received. Therefore, the matter is taken up for decision based on records.

5.1 The Government has carefully examined the matter. It is the contention of the Applicant that goods, namely, cosmetics valued at Rs. 57,600/- have expired during detention period after issuance of ASA order dated 04.05.2017. Hence, balance goods may be allowed to redeem on payment of Customs duty and the fine and penalty imposed may be waived. It is on record that the Applicant reported at Red Channel Counter along with goods, in commercial quantity. The request for waiver from issuance of show cause notice was accepted by the original authority. The detained goods were confiscated under Section 111(d) with an option to redeem the same under Section 125(1) of the Customs Act, 1962. A penalty of Rs. 10,000/- was also imposed on the Applicant under Section 112 of the Act, *ibid*.

5.2 The Government observes that the request for redemption without fine and penalty due to expiry of some goods, was also made before the Commissioner (Appeals). The Commissioner (Appeals), however, did not find merit in this contention as the Applicant herein had, of their own volition, failed to redeem the goods. The Government agrees with this view of the Commissioner (Appeals) in as much as the original authority had granted the option to redeem within about one month of detention and it is due to Applicant herein not redeeming the goods, in time, that many of them have got expired. The Applicant cannot be claiming advantage out of their own inaction.

6. In view of the above, the revision application is rejected.


(Sandeep Prakash)

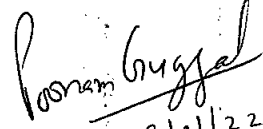
Additional Secretary to the Government of India

Sh. Chandra Shekhar Singh,
146, C Road, Bamangachi,
Salkia, Howrah, Kolkata.

Order No. 28/22-Cus dated 27-01-2022

Copy to:

1. The Commissioner of Customs (Airport & Admin.), N.S.C.B.I. Airport, Kolkata – 700 052.
2. The Commissioner of Customs (Appeals), Kolkata, 3rd Floor, Customs House, 15/1, Strand Road, Kolkata – 700 001.
3. Sh. Punam Chand Jain, Consultant, 64, Bortolla, Street, Kolkata- 700007.
4. PA to AS(RA).
5. Guard File.
6. Spare Copy.


28/01/22

(Poonam Guggal)

Subdt: RA