

'SPEED POST'



F. No. 375/03/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. 31/2022-Cus dated 28-01-2022 of the Government of India passed by Sh. Sandeep Prakash, Principal Commissioner & 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. CC(A)Cus/D-I/Airport/351/2019-20 dated 30.09.2019, passed by the Commissioner of Customs (Appeals), New Delhi.

Applicant : Sh. Shyam Lal alias Vidhya Prakash, Amritsar, Punjab.

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

ORDER

A Revision Application No.375/03/B/2020-RA dated 10.01.2020 has been filed by Sh. Shyam Lal alias Vidhya Prakash, Amritsar, Punjab (hereinafter referred to as the Applicant) against the Order-in-Appeal No. CC(A)Cus/D-I/Airport/351/2019-20 dated 30.09.2019, issued by the Commissioner of Customs (Appeals), Delhi. The Commissioner (Appeals) has, vide the impugned Order-in-Appeal, rejected the appeal filed by the Applicant herein against the Order-in-Original No. 214/AS/JC/2017 dated 29.09.2017, passed by the Joint Commissioner of Customs, IGI Airport, New Delhi, on the ground that the Applicant did not make the mandatory pre-deposit of 7.5%, as per Section 129(E) of the Customs Act, 1962.

2. The brief facts of the case are that the Applicant arrived on 27.08.2015, at IGI Airport, from Sharjah and was intercepted near the exit gate after he had crossed the Customs Green Channel. After search of his person and baggage, six (06) pcs of white coated gold wire, collectively weighing 645.54 Gms (net wt. 637.54 Gms), valued at Rs. 15,21,633/-, was recovered from his checked-in baggage which were concealed in and around the suit case carried as checked-in baggage. The Applicant admitted the recovery of the white coated gold wire from his baggage and claimed the ownership of the seized goods. The original authority, vide the aforesaid Order-in-Original 19.12.2017, absolutely confiscated the goods. A Penalty of Rs. 3 Lakh was also imposed under Section 112 & 114AA of the act, *ibid*. Aggrieved, the Applicant filed an appeal before the Commissioner (Appeals) who rejected the appeal as non-maintainable on the grounds that the Applicant did not make the mandatory pre-deposit.

3. The instant revision application has been filed, mainly, on the ground that the applicant has already made the pre-deposit vide TR-6 Challan No. 1485 dated 05.02.2019, before passing of the Order-in-Appeal; that no personal hearing was granted to the Applicant; the gold was not concealed; and that the penalty is on higher side.

4. Personal hearing in, virtual mode, was held on 28.01.2022. Sh. Amit Attri, Advocate, attended the hearing on behalf of the Applicant and submitted that the appeal was rejected by the Commissioner (Appeals) for failure to make the pre-deposit in terms of Section 129E of the Customs Act, 1962 whereas the pre-deposit had already been made on 05.02.2019. A copy of Challan is annexed to the revision application. Therefore, the matter may be remanded to the Commissioner (Appeals)

for decision on merits. No one appeared for the respondent department nor any request for adjournment has been received. Therefore, the case is being taken up for final decision.

5. The Government has examined the matter carefully. It is observed that the Commissioner (Appeals) has rejected the appeal on the ground that the Applicant herein did not make the mandatory pre-deposit, as per Section 129E of the Customs Act, 1962. It is not disputed that being a mandatory condition the pre-deposit ought to have been made. The Applicant has claimed that requisite pre-deposit had been made and the Commissioner (Appeals) did not take the notice thereof while passing the impugned order. A copy of TR-6 Challan No. 1485 dated 05.02.2019, evidencing the same, has been placed on record. Subject to verification thereof, it would be in the interest of justice that the matter is remanded to Commissioner (Appeals) with a direction to decide the appeal afresh, on merits.

6. In view of the above, the revision application is allowed by way of remand to Commissioner (Appeals), with directions as above.



(Sandeep Prakash)

Additional Secretary to the Government of India

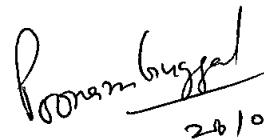
Sh. Shyam Lal alias Vidhya Prakash,
R/o 289/4, Gali Bhaney Shah Bazaar,
Kesarian, Amritsar, Punjab - 143001

Order No. 31/2022-Cus dated 28-01-2022

Copy to:

1. The Commissioner of Customs (Appeals), New Custom House, Delhi-110037.
2. The Commissioner of Customs, Airport & General, New Custom House, New Delhi - 110037
3. Sh. Amit Attri, Advocate, Chamber No. 952, Patiala House Courts, New Delhi - 110001
4. PA to AS(RA)
5. Guard File.
6. Spare Copy

ATTESTED


28/01/22

(Poonam Guggal)
Supdt RA