

SPEED POST



F. No. 373/71/B/2018-RA
F. No. 373/72/B/2018-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. 21.11.22

Order No. 356-357/22-Cus dated 21-11-2022 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 Applications filed, under Section 129 DD of the Customs Act 1962 against the Order-in-Appeal SEAPORT C. Cus. II No. 10-11/2018 dated 19.01.2018 passed by the Commissioner of Customs (Appeals-II), Chennai.

Applicant : 1. Sh. A. Yunus @ Mohamed Jaburellah, Chennai.
2. Sh. Shek Mohammd Bajirulla, Chennai.

Respondent : Pr. Commissioner of Customs, Chennai-III.

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ORDER

Two Revision Applications, bearing Nos. 373/71/B/2018-RA and 373/72/B/2018-RA both dated 23.02.2018, have been filed by Sh. A. Yunus @ Mohamed Jaburellah, Chennai (hereinafter referred to as the Applicant-1) and Sh. Shek Mohammd Bajirulla, Chennai (hereinafter referred to as the Applicant-2), against the Order-in-Appeal SEAPORT C. Cus. II No. 10-11/2018 dated 19.01.2018 passed by the Commissioner of Customs (Appeals-II), Chennai. The Commissioner (Appeals) has rejected the appeals filed by the Applicants herein against the Order-in-Original passed by the Additional Commissioner of Customs, Chennai-III, bearing no. 58736/2017 dated 04.10.2017, except to the extent of reducing the penalty imposed on each of the Applicants herein, under Section 112(b) of the Customs Act, 1962, from Rs. 5,00,000/- to Rs. 3,00,000/-. Vide the aforesaid Order-in-Original, foreign origin gold bars, totally weighing 2.335 Kgs, valued at Rs. 71,82,460/-, recovered from the Applicants, have been absolutely confiscated under Sections 111(b) and 111(d) of the Customs Act, 1962 along with the concealing material, under Section 119 of the Customs Act, 1962. Besides penalty of Rs. 5,00,000/- each was imposed on the Applicants, under Section 112(b) of the Act, *ibid*, which has been reduced in appeal.

2. Brief facts of the case are that, on 20.06.2016, based on a specific intelligence the officers of CZU-DRI intercepted and identified both Applicant-1 and Applicant-2 herein coming in a bus from Gudur at CMBT, Koyambedu. The officers enquired from both the Applicants as to whether they had carried any crude gold bars of foreign origin or foreign marked gold bars on their person or in their baggage. After initial denial, they finally admitted to carrying foreign origin gold bars concealed in their trolley suitcases (1 for

● each) and volunteered to retrieve the same and hand over to the officers. Two packets wrapped with black adhesive tape were recovered from the hollow cavity of two arms of the pulling rod of trolley bag owned by Applicant-1 and opening the said two packets, crude gold bars were found. Similarly, two more packets containing crude gold bars were recovered from the hollow cavity of two arms of the pull rod of the black trolley bag owned by Applicant-2. On enquiry as to whether they had any valid documents for the licit possession of the crude gold carried by them, both the Applicants replied in negative. Both the Applicants informed that the trolley bags with gold concealed in them were handed over to them at Guwahati railway station by a native. They further informed that they had picked up those trolley bags with gold concealed in the pull-rods as requested by one Sh. Nazrullah of Royapuram, Chennai for which they were promised monetary benefit of Rs. 10,000/- in addition to the travelling and lodging expenses. The Government approved gold assayer assayed the gold and certified that all the 4 crude gold bars of 24 Karat, totally weighing 2.335 Kgs and valued at Rs. 71,82,460/-.

3. The instant revision applications have been filed, mainly, on the grounds that the order of the respondents is against law, weight of evidence and circumstances and probabilities of the case; that it is a case of town seizure; that the import of gold is not prohibited; that the gold be released to the Applicants and set aside the impugned order.

4. Personal hearing was fixed for 21.11.2022. No one appeared from either side nor any request for adjournment has been received. Vide email letter dated 21.11.2022, the

Advocate for the Applicants has requested for the case to be decided with available records. Hence, the matter is taken up for decision on the basis of records available.

5. The Government has carefully examined the matter. It is observed that the goods in question were seized from the possession of the Applicants on the road and there is nothing on record to indicate that seized goods were imported as baggage. As such, the instant case does not fall in the category of cases listed in the first proviso to Section 129A(1) of the Customs Act, 1962. Hence, the revision applications are not maintainable under Section 129DD.

6. In view of the above, the revision applications are rejected, as not maintainable.



(Sandeep Prakash)

Additional Secretary to the Government of India

1. Sh. A. Yunus @ Mohamed Jaburellah,
S/o Asan E,
No. 93, Adham Street,
Royapuram, Chennai-600013.
2. Sh. Shek Mohamed Bajirulla,
S/o Bajrulla,
Old No.9, New No.16,
Rajiv Gandhi Nagar, Tiruvottiyur,
Chennai-600019.

Order No. 356-357/22-Cus dated 21-11-2022

Copy to:

1. The Commissioner of Customs (Appeals-II), 60, Rajaji Salai, Custom House, Chennai-600001.
2. Pr. Commissioner of Customs, Chennai-III, Customs House, 60, Rajaji Salai, Chennai-600001.

3. Ms. Kamalamalar Palanikumar, Advocate, No.10, Sunk ram street, 2nd Floor, Chennai-600001.
4. PA to AS(RA).
5. Guard File.
6. ~~Spare Copy.~~
7. Notice Board.

ATTESTED



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U.S. DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
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MAY 19 1964