

SPEED POST



F.No. 375/11/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... 4/2/22

Order No. 36/22-Cus dated 04-2-2022 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 129DD of the Customs Act 1962 against the Order-in-Appeal No. D-II/ICD/TKD/IMP/636/2019 dated 25.09.2019, passed by the Commissioner of Customs (Appeals), NCH, New Delhi.

Applicant : Sh. Dayanand Sharma, Delhi.

Respondent : The Commissioner of Customs, Import, ICD, Tkd, New Delhi.

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ORDER

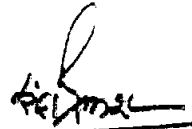
Revision Application No. 375/11/B/2020-RA dated 27.01.2020 has been filed by Sh. Dayanand Sharma, Delhi (hereinafter referred to as "Applicant") against Order in Appeal No. D-II/ICD/TKD/IMP/636/2019 dated 25.09.2019 passed by the Commissioner of Customs (Appeals), New Customs House, New Delhi.

2. The brief facts leading to the present proceedings are that an information regarding smuggling of foreign origin cigarettes from Singapore in a container which was lying at ICD, Tughlakabad was developed by the Officers of Directorate of Revenue Intelligence. Accordingly, the officers of DRI examined the container and found that it contained a few corrugated boxes and Cigarettes of foreign origin of different brands. The Bill of Entry was not filed. The allegation against the Applicant was that he made arrangements for clearance of consignment by finding CA, namely, Sh. Pawan Singhal who further arranged CHA. He also met one person namely Zaman Brothers for collecting documents and handed them over to Sh. Pawan Singhal. The Additional Commissioner of Customs, ICD(Import), Tughlakabad, New Delhi, vide the Order-in-Original No. 18/2018 dated 22.03.2018, imposed a penalty of Rs. 5,00,000/- on the Applicant. Aggrieved, the Applicant filed an appeal before the Commissioner (Appeals), which was rejected. Vide the instant revision application, the Applicant has challenged the order of Commissioner (Appeals) on the grounds that the penalty imposed by the adjudicating authority is not proper.

3. Personal hearing, in virtual mode, was held on 04.02.2022. Sh. Sudhir Batra, Advocate, and Sh. Rohit Khanna, Advocate, attended the hearing on behalf of the Applicant. Upon being pointed out that the subject case does not appear to fall within the purview of proviso to Section 129 A(1) of the Customs Act, 1962 and as such revision application is not maintainable, Sh. Batra requested permission to withdraw the revision application with liberty to approach CESTAT in appeal. No one appeared for the respondent, nor has any request for adjournment been received. Accordingly, the case is being taken up for final disposal based on records.

4. The Government has carefully examined the matter and observes that the goods in question were imported as cargo for which regular bills of entry were to be filed before the proper officer of customs under Section 46 of the Customs Act, 1962. As per the provisions of Section 129 A, an appeal against the order of Commissioner (Appeals) lies with the Appellate Tribunal except for the cases listed in first proviso to sub-section (1) thereof. Instant case does not fall in the category of cases listed in the said proviso to Section 129 A (1). Hence, the revision application is not maintainable. In this light, the Applicants have requested for the withdrawal of the revision application with liberty to approach CESTAT in appeal.

5. In view of the above, the Revision Application is rejected as withdrawn, with liberty to Applicant to approach the appropriate forum, as per law.



(Sandeep Prakash),

Additional Secretary to the Government of India

Sh. Dayanand Sharma,
3749, Kucha Parmanand,
Daryaganj,
Delhi-110002.

Order No. 36/22-Cus dated 4-2-2022

Copy to:

1. The Commissioner of Customs, Import, ICD, Tughlaqabad, New Delhi-110020;
2. The Commissioner of Customs (Appeals), New Customs House, New Delhi-110037.
3. Sh. Sudhir Batra, Advocate, Ch. No. 304, Saket courts Complex, New Delhi 110017.
4. PA to AS(RA)
5. ~~Guard file~~

Attested
Atom
04/02/2022
(A-K-Lau)
Support.