

F. No. 373/207/B/2018-RA
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SPEED POST



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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. 28/11/22

Order No. 370-372/22-Cus dated 28-11-2022 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 Applications filed, under Section 129 DD of the Customs Act 1962 against the Orders-in-Appeal No. Airport. C. Cus. (I). No. 54-56/2018 dated 19.04.2018, passed by the Commissioner of Customs (Appeals-I), Chennai.

Applicants

1. Sh. Opula Saravanan Selvakumar, Madurai
2. Sh. Judi Krishnamurthy Kumaresh Babu, Madurai
3. Sh. Balakrishnan Rajasekaran, Chennai

Respondent: Pr. Commissioner of Customs, Airport, Chennai.

ORDER

Three Revision Applications, bearing nos. 373/207/B/2018-RA, 373/208/B/2018-RA and 373/209/B/2018-RA, all dated 08.08.2018, have been filed by Sh. Opula Saravanan Selvakumar, Madurai, (hereinafter referred to as the Applicant-1), Sh. Judi Krishnamurthy Kumaresh Babu, Madurai, (hereinafter referred to as the Applicant-2) and Sh. Balakrishnan. Rajasekaran, Chennai, (hereinafter referred to as the Applicant-3), respectively, against the Orders-in-Appeal No. Airport. C. Cus. (I). No. 54-56/2018 dated 19.04.2018, passed by the Commissioner of Customs (Appeals-I), Chennai. The Commissioner (Appeals) has rejected the appeals filed by the Applicants herein against the Order-in-Original, bearing no. 144/2017-18-Airport dated 31.10.2017, passed by the Joint Commissioner of Customs (Adjudication-Air), Airport, Chennai, as time barred.

2. The brief facts of the case are that the Applicants were scheduled to depart, on 11.09.2016, from Chennai Airport, to Singapore by Sri Lankan Airlines flight No. UL-124 dated 11.09.2016. The officers of DRI, on the basis of specific information, intercepted the Applicants herein. Upon search of their person and of their baggage, assorted foreign currency equivalent to Rs. 28,19,026/-, Rs. 23,61,100/- and Rs. 2,68,672/- was recovered from Applicant-1, 2 & 3, respectively. The original authority, vide the above-mentioned Order-in-Original, ordered for absolute confiscation of the recovered foreign currency under Section 113(d) & (e) of the Customs Act, 1962. Besides, penalties of Rs. 3,00,000/-, Rs. 2,50,000/- and Rs. 30,000/- were also imposed on the Applicant-1, Applicant-2 and Applicant-3, respectively under Section 114(i) of the Act, *ibid*. Aggrieved, Applicants filed appeals before the Commissioner (Appeals), which were rejected as time barred, i.e., for a delay of 01 (one) day.

3. The revision applications have been filed canvassing that the Applicants filed the appeal on time as the impugned OIO was received by them only on 07.11.2017 and the Appeals were filed on 06.02.2018 which is within the condonable period of 30 days. The limitation starts only on 08.11.2017 i.e., next day of the receipt, as per the General Clauses Act. Several averments have been made on the merits of the case as well.

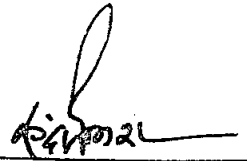
4. Personal hearing in the matter was fixed on 28.11.2022. No one appeared for either side nor any request for adjournment has been received. For the reasons brought out hereinafter, the matter lies in a very small ambit and can be decided on the basis of records itself. Hence, no further opportunity of hearing is being granted.

5.1 The Government has examined the matter carefully. The Commissioner (Appeals) has rejected the appeals as time barred, as the Applicants had not filed the appeal within the stipulated period. As per sub-section (1) of Section 128 of the Customs Act, 1962, an

appeal before the Commissioner (Appeals) can be made within 60 days from the date of communication to the appellants of the order against which the appeals are being made. However, proviso to said sub-section (1) provides discretion to the Commissioner (Appeals) to allow an appeal to be presented within a further period of 30 days, if the Commissioner (Appeals) is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the normal period of 60 days. In the instant case appeals were filed on 91st day, counting the period from 08.11.2017 - i.e., after a delay of 01 (one) day from the stipulated time period of 90 days, in which appeal can be filed. The Commissioner (Appeals) has correctly held that the delay beyond the period of 30 days, as provided under sub-section (1) of Section 128, cannot be condoned by him. [Ref. Singh Enterprises vs. Commissioner of Central Excise, Jamshedpur {2008 (221) ELT 163 (SC)}].

5.2 Therefore, the Government does not find any infirmity in the Order of Commissioner (Appeals).

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



(Sandeep Prakash)

Additional Secretary to the Government of India

1. Sh. Opula Saravanan Selvakumar,
S/o Shri O. S. Saravanan,
No. 31-B, Kaliamma, Koli Street,
Meenatchi Nagar, Villapuram, Madurai-625 012.
2. Sh. Judi Krishnamurthy Kumaresh Babu,
S/o Shri Judi Krishnamoorthy,
Old No. 182, New No. 114,
South Perumal Mestry Veethy,
Madurai-625 001.
3. Sh. Balakrishnan Rajasekaran,
S/o Shri Balakrishnan,
No.3, C-Block, Tamilnadu Housing Board Society,
Shenoy Nagar, Chennai-600 030

Order No. 370-372/22-Cus dated 28-11-2022

Copy to:

1. The Commissioner of Customs (Appeals-I), 60, Rajaji Salai, Customs House, Chennai - 600 001.

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2. The Pr. Commissioner of Customs (I), Airport, New Customs House, Meenambakkam, Chennai – 600 027.
3. Sh. A. Ganesh, Advocate, F-Block, 179, Anna Nagar, Chennai – 600 102.
4. PA to AS(RA).
5. Guard File.
6. Notice Board.

F. Spare Copy

ATTESTED

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