

SPEED POST



F. No. 373/55-A/B/2016-RA
F. No. 373/03/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.....09/12/22

Order No. 377-378/22-Cus dated 09-12-2022 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. 478/2106 dated 30.06.2016 and 919/2017 dated 13.10.2017 passed by the Commissioner of Customs (Appeals), Bengaluru.

Applicant : 1. Sh. Saeed Ahmed Abdul Gaffar Shaik, Mumbai.
2. Sh. Imtiyaz Yacub, Mumbai.

Respondent : The Pr. Commissioner of Customs, Airport & Air Cargo Complex, Bengaluru.

.....

ORDER

Revision Applications No. 373/55-A/B/2016-RA dated 30.08.2016 and No. 373/03/B-2018-RA dated 04.01.2018 have been filed by Sh. Saeed Ahmed Abdul Gaffar Shaik, Mumbai (hereinafter referred to as the Applicant-1) and Sh. Imtiyaj Yacub, Mumbai (hereinafter referred to as the Applicant-2), against the Order-in-Appeal No. 478/2016 dated 30.06.2016 and Order-in-Appeal No. 919/2017 dated 13.10.2017, respectively, passed by the Commissioner of Customs (Appeals), Bengaluru. Vide the aforesaid Orders-in-Appeal, the Commissioner (Appeals) has upheld the Order-in-Original No. 641/2015-16 dated 29.02.2016, passed by the Joint Commissioner of Customs (Airport), Bengaluru and Order-in-Original No. 207/2016 dated 07.04.2016, passed by the Additional Commissioner of Customs (Airport), Bengaluru in the matters of Applicant-1 and Applicant-2, respectively.

2. Briefly stated, Applicants arrived at Bengaluru Airport on 12.03.2015 and 02.08.2016 respectively. 04 gold pieces, weighing 510.44 gms. valued at Rs. 13,45,009/-, were recovered from the Applicant-1, concealed in his rectum. 112 numbers of assorted gold articles of 24 carat, totally weighing 690.770 gms. valued at Rs. 18,58,171/-, were recovered from Applicant-2. The original authorities ordered absolute confiscation of the gold/gold articles recovered from Applicant-1 & 2 under Sections 111 (d), (i), (l) and (m) of the Customs Act, 1962. A penalty of Rs. 6,72,500/- was imposed on the Applicant-1 under Section 112 of the Customs Act, 1962 while a penalty of Rs. 5,50,000/- and Rs. 3,70,000/- was imposed on Applicant-2 under Section 112 and 114 AA of the Customs Act.

The appeals filed by the Applicant herein have been rejected vide the impugned Orders-in-Appeal.

3. The revision applications have been filed, mainly, on the grounds that the gold should have been allowed to be redeemed and personal penalties are harsh and excessive.
4. Personal hearing in the matter was held on 09.12.2022. Sh. Prakash Shinghrani, Advocate for the Applicant in physical mode. Upon being asked whether RA fee has been deposited, Sh. Shingharani requested for one weeks time to do so. No one appeared for the Respondent department nor any request for adjournment has been received. Therefore, it is presumed that the department has nothing to add in the matter.
5. The Government has carefully examined the matter. In terms of sub-section (3) of Section 129DD of the Customs Act, 1962, a revision application "shall be accompanied by a fee" of Rs.1,000/- where the amount of duty and interest demanded, fine or penalty levied is more than Rs. 1,00,000/-. In the present case, the Applicants have been visited with the penalties in excess of Rs. 1,00,000/-. Therefore, the subject revision applications ought to have been accompanied by a fee of Rs. 1,000/- each, in terms of aforesaid sub-section (3) of Section 129DD. However, the Applicants have failed to deposit the RA fee of Rs. 1,000/- despite repeated advice -letters dated 30.11.2016, 23.08.2021, 17.09.2021, 03.11.2021 and 17.11.2022 in the case of Applicant-1 and letters dated 22.02.2018, 21.10.2022, 31.10.2022 and 17.11.2022 in the case of Applicant-2. Further, the applications have been pending for about 06 years and 05 years, respectively. Despite the

same the RA fee has not been paid and at the time of hearing, a request is again made for time to pay the same, which in the facts and circumstances of the case appears to be nothing but a dilatory tactic.

6. In view of the above, the subject revision applications are rejected without traversing the merits of the respective cases.



(Sandeep Prakash)

Additional Secretary to the Government of India

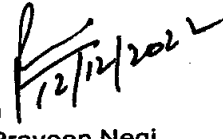
1. Sh. Saeed Ahmed Abdul Gaffar Shaik
S/o Sh. Abdul Gaffar Shaik
8/10, Al Aziz Palace, 2nd Floor, Room No. 26
Dongri Cross Lane, Jail Road South
Mumbai-400009
2. Sh. Imtiyaz Yacub, No. 25/30,
Umar Manzil, 2nd Floor, R. No. 23,
Kambekar Street, Mumbai-400003.

Order No. 377-378/22-Cus dated 09-12-2022

Copy to:

1. The Pr. Commissioner of Customs, Airport Air & Cargo Complex, Air India Sats Air Freight Terminal, Devanahalli, Bengaluru-560300.
2. The Commissioner of Customs (Appeals), C.R. Building, P.B. No. 5400, Queens Road, Bengaluru-560001.
3. Sh. Prakash K. Shingrani, Advocate, High Court, 12/334, New MIG Colony(Vivek), Bandra (E), Mumbai-400051.
4. PA to AS(RA).
5. Guard File.
6. Spare Copy.
7. Notice Board.

ATTESTED


प्रवीण नेगी / Praveen Negi
अधीक्षक / Superintendent (R.A. Unit)
वित्त मंत्रालय / Ministry of Finance
राजस्व विभाग / Department of Revenue
Room No. 605, 6th Floor, B-Wing
4, Hudco Vishala Building, Bhikaji Cama Place
New Delhi-110066