

SPEED POST



F. No. 375/06/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...18/02/22

Order No. 54/22-Cus dated 18-02-2022 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 129 DD of the Customs Act 1962 against the Order-in-Appeal No. CC(A)CUS/D-I/Airport/434/2019-20 dated 11.11.2019, passed by the Commissioner of Customs (Appeals), New Customs House, New Delhi.

Applicant : Sh. Riyaz Shaikh, Navi Mumbai, Thane.

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

ORDER

A Revision Application No. 375/06/B/2020-RA dated 20.01.2020 has been filed by Sh. Riyaz Shaikh, Navi Mumbai, Thane, (hereinafter referred to as the Applicant) against the Order-in-Appeal No. CC(A)CUS/D-I/Airport/434/2019-20 dated 11.11.2019, passed by the Commissioner of Customs (Appeals), New Customs House, New Delhi. The Commissioner (Appeals) has upheld the order of the Joint Commissioner of Customs, IGI Airport, New Delhi, bearing no. 259/AS/JC/2017 dated 02.11.2017, whereby nine pieces of gold bar wrapped in silver colour adhesive tape (concealed in voltage convertor), totally weighing 1049.76 grams and collectively valued at Rs.26,86,483/-, were absolutely confiscated under Sections 111(d), 111(i), 111(j), 111(l) & 111(m) of the Customs Act, 1962. Besides, penalty of Rs.5,00,000/- was also imposed by the original authority on the Applicant herein, under Sections 112 & 114AA of the Customs Act, 1962, which has been maintained in appeal.

2. Brief facts of the case are that the Applicant arrived, on 22.05.2015, at IGI Airport, Delhi, from Dubai. The Applicant was intercepted near the exit gate after he had crossed the Customs Green Channel. After search of his person and of his baggage nine gold bars, wrapped in silver colour adhesive tape and concealed in voltage converter, were recovered. The Applicant accepted that the said gold bars had been hidden by him. The value of seized gold, weighing 1049.76 grams, was appraised at Rs.26,86,483/- by the Jewellery Appraiser at IGI Airport. 09 pieces of gold bars, recovered from the Applicant, were seized under Section 110 of the Customs Act, 1962, under panchanama dated 23.05.2015. The Applicant in his statement dated

23.05.2015, recorded under Section 108 of the Customs Act, 1962, admitted the recovery of 09 pieces of gold bars and agreed with the contents of the panchanama dated 23.05.2015. He further stated that the recovered gold bars belonged to him and he had purchased the same at Dubai; that he had not declared the gold mistakenly; that he was fully aware that the import of gold was liable to Customs duty; and that the smuggling of the same was a punishable offence..

3. The revision application has been filed canvassing that though Applicant admitted ownership and that concealment was done to evade duty, the gold may be released on payment of redemption fine and appropriate duty; and that the penalty imposed may be reduced.

4. Personal hearing was fixed on 14.01.2022, 28.01.2022 and 18.02.2022. No one appeared for the Applicant or the Respondent department on any of the above mentioned dates nor any request for adjournment has been received. Since sufficient opportunities have been granted, the case is being taken up for final decision based on records.

5.1 The Government has examined the matter. It is observed that the instant revision application is not accompanied by the revision application fee of Rs. 1000/-, as required under Section 129DD (3) of the Customs Act, 1962. The Court fee stamps of Rs. 5/- each are also not affixed. These issues have been raised for rectification with the Applicant, repeatedly, vide letters dated 28.02.2020, 04.01.2022, 14.01.2022 and 03.02.2022. However, the Applicant has failed to comply.

5.2 Sub-section (3) of the Section 129 DD reads as under:

"An application under sub-section (1) shall be in such form and shall be verified in such manner as may be specified by rules made in this behalf and shall be accompanied by a fee of, -

(a) two hundred rupees, where the amount of duty and interest demanded, fine or penalty levied by an officer of customs in the case to which the application relates is one lakh rupees or less;

(b) one thousand rupees, where the amount of duty and interest demanded, fine or penalty levied by an officer of customs in the case to which the application relates is more than one lakh rupees ." (emphasis supplied).

On a plain reading of the above said provision, it is clear that the payment of fee is mandatory. Thus, the instant revision application, which is not accompanied by fee, cannot be entertained.

6. In view of the above, the revision application is rejected.



(Sandeep Prakash)

Additional Secretary to the Government of India

Sh. Riyaz Shaikh,
101, Red Rose Apts., Sector 27,
Seawoods, Nerul, Navi Mumbai,
Thane - 400706

Order No. 54/22-Cus dated 18-02-2022

Copy to:-

1. The Commissioner of Customs, IGI Airport, Terminal-3, New Delhi – 110 037.
2. The Commissioner of Customs (Appeals), New Customs House, Near IGI Airport, New Delhi – 110037.
3. Sh. Prakash Kshingrani, Advocate, 12/334, Vivek, New MIG Colony, Bandra, Mumbai 400051.
4. PA to AS(RA).
5. Guard File.
6. Spare Copy.

ATTESTED



GULSHAN BHATIA
Superintendent