

**SPEED POST**



F. No. 373/243/B/2014-RA  
GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(DEPARTMENT OF REVENUE)

14, HUDCO VISHALA BLDG., B WING  
6<sup>th</sup> FLOOR, BHIKAJI CAMA PLACE,  
NEW DELHI-110 066

Date of Issue. 15/02/2023

Order No. 54/23-Cus dated 15-02-2023 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 C.Cus No. 673/2014 dated 11.04.2014, passed by the Commissioner of Customs (Appeals), Chennai.

Applicant : Sh. Murukan, Chennai

Respondent : Pr. Commissioner of Customs, Airport, Chennai

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**ORDER**

A Revision Application, bearing No. 373/243/B/2014-RA dated 06.06.2014, has been filed by Sh. Murukan, Chennai (hereinafter referred to as the Applicant), against the Order-in-Appeal No. C.Cus No. 673/2014 dated 11.04.2014, passed by the Commissioner of Customs (Appeals), Chennai. The Commissioner (Appeals) has upheld the order of the Assistant Commissioner of Customs, Anna International Airport, Chennai, bearing O.S No. 1448/2013 Batch C dated 11.12.2013, vide which a semi-finished gold chain of 24 carats, weighing 102 gms and valued at Rs. 2,57,361/-, brought by the Applicant herein, had been absolutely confiscated under Sections 111(d), 111(l), 111(m) & 111(o) of the Customs Act, 1962. Besides, penalty of Rs. 25,000/- was also imposed on the Applicant, under Section 112(a) of the Act, *ibid*.

2. Brief facts of the case are that the Applicant arrived from Kuala Lumpur at Chennai International Airport, on 11.12.2013, after 03 days of stay abroad and was intercepted by the Customs officers. Upon examination of his person/baggage the impugned semi-finished gold chain as mentioned above was recovered.

3. The revision application has been filed, mainly, on the grounds that order of the appellate authority is contrary to law; that appellate authority ought to have directed refund of the penalty amount of Rs. 25,000/- to the Applicant; that gold chain brought by the Applicant adorned him and was not concealed; that authorities below ought to have directed release of the goods at least on payment of duty; and that original authority did not give the Applicant an opportunity to be heard in person.

4. Personal hearing was fixed on 27.06.2018, 29.08.2019, 01.10.2019, 09.01.2023, 27.01.2023 & 13.02.2023. In the hearing held, in virtual mode, on 13.02.2023, Sh. K. Ayub Khan, Advocate appeared for the Applicant and reiterated the contents of the RA. Upon being pointed out, Sh. Khan undertook to submit the following by email by 6 p.m that day:

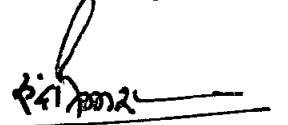
- i) Copy of the Order dated 11.12.2013 passed by the original authority in the matter.
- 2) Proof of payment of penalty of Rs. 25,000/- imposed by the original authority.

It was made clear to Sh. Khan that unless the above are submitted by 6 p.m that day, it would be presumed that the penalty has not been paid and the matter shall be decided accordingly. No one appeared for the Respondent department nor any request for adjournment has been received.

5. The Government has carefully examined the matter. At the outset, it is observed that the Applicant herein has failed to file a copy of the Order-in-Original OS No. 1448/2013

Batch 'C' dated 11.12.2013, despite being advised to do so vide letters dated 05.12.2014, 27.12.2022, 04.01.2023, 13.01.2023 & 27.01.2023. A copy of the order passed by the original authority is prescribed as a document to be filed alongwith the RA as, in absence thereof, it would not be possible to examine the merits of the Order passed by the Commissioner (Appeals) in the appeal filed by the Applicant at the appellate stage. Thus, by failing to submit a copy of the Order-in-Original dated 11.12.2013, despite repeated advise, including during personal hearing, the Applicant has demonstrated that present revision application is a non-serious effort. Further, the Commissioner (Appeals) has correctly pointed out that, as per the applicable provisions of Section 129E of the Customs Act, 1962, the appeal could have been entertained only after the penalty imposed by the original authority had been paid. Commissioner (Appeals) has further recorded that the proof of payment of penalty had not been submitted nor any application for waiver of such pre-deposit had been filed. Even at this stage, the Applicant has been unable to controvert this position despite being specifically asked to do so during the personal hearing. Thus, the Commissioner (Appeals) was correct in holding that the appeal filed before him was not maintainable.

6. The revision application is rejected for the reasons aforesaid, without traversing the merits of the case.



(Sandeep Prakash)

Additional Secretary to the Government of India

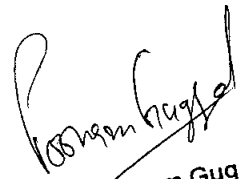
Sh. Murukan  
C/o K. Ayub Khan, Advocate  
44, Law Chambers  
High Court Buildings  
Chennai-600104

Order No. 54/23-Cus dated 15-03-2023

Copy to:

1. The Commissioner of Customs (Appeals-I), 60, Rajaji Salai, Custom House, Chennai-600001.
2. Pr. Commissioner of Customs, Chennai-I(Airport), New Custom House, Meenambakkam, Chennai-600027.
3. Sh. K. Ayub Khan, Advocate, 44, Law Chambers, High Court Buildings, Chennai-600104.
4. PPS to AS(RA)
5. Guard File
- ✓ 6. Spare Copy
7. Notice Board

ATTESTED



पूनाम गुग्गल / Poonam Guggal  
अधीक्षक / Superintendent (R.A. Unit)  
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राजस्व विभाग / Department of Revenue  
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