

'SPEED POST'



F. No. 375/44/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..21/02/22

Order No. 55/2022-Cus dated 21-02-2022 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 129DD of the Customs Act, 1962 against the Order-in-Appeal No. 34 (SM) CUS/JPR/2020 dated 06.07.2020, passed by the Commissioner (Appeals), CGST, Central Excise & Customs, Jaipur.

Applicant : Sh. Khalid Ali, Delhi.

Respondent : The Commissioner of Customs, Jodhpur Hqrs at Jaipur.

ORDER

A Revision Application No.375/44/B/2020-RA dated 20.07.2020 has been filed by Sh. Khalid Ali, Delhi (hereinafter referred to as the Applicant) against the Order-in-Appeal No. 34 (SM) CUS/JPR/2020 dated 06.07.2020, passed by the Commissioner (Appeals), CGST, Central Excise & Customs, Jaipur. The Commissioner (Appeals) has, vide the impugned Order-in-Appeal, rejected the appeal filed by the Applicant herein against the Order-in-Original No. 10/2019 dated 28.03.2019, passed by the Additional Commissioner of Customs, Jaipur, on the ground that the Applicant did not make the mandatory pre-deposit of 7.5%, as per Section 129 E of the Customs Act, 1962.

2. The brief facts of the case are that the Applicant arrived, on 03.06.2018, at Jaipur Airport, from Bangkok and was intercepted near the exit gate after he had crossed the Customs Green Channel. After search of his person and baggage, six pieces of metal hooks (Rings) were found attached with the hand bag. One kada and one chain made of raw gold were also found inside the hand bag. These items made of gold, weighing 378.700 gms, were collectively valued at Rs. 11,77,021/-. The Applicant admitted the recovery of the above said gold items from his baggage and claimed the ownership of the seized goods. The original authority, vide the aforesaid Order-in-Original dated 28.03.2019, absolutely confiscated the goods. Penalties of Rs. 50,000/- and of Rs. 25,000/- were also imposed under Section 112 & 114AA of the Act, *ibid*, respectively. Aggrieved, the Applicant filed an appeal before the

Commissioner (Appeals), which was rejected as non-maintainable on the grounds that the Applicant did not make the mandatory pre-deposit.

3. The instant revision application has been filed, mainly, on the ground that the Applicant had already made the pre-deposit vide TR-6 Challan No. 1169 dated 21.10.2019, before passing of the Order-in-Appeal; that gold is not prohibited; and that the penalty is on a higher side.

4. Personal hearing in, virtual mode, was held on 18.02.2022. Sh. S.S. Arora, Advocate, attended the hearing on behalf of the Applicant and submitted that the Commissioner (Appeals) has erroneously rejected the appeal even though pre-deposit was already made, vide Challan No. 1169 dated 21.10.2019, i.e., before the personal hearing was held and Order-in-Appeal was passed. Hence, the matter may be remanded for decision on merits. Sh. H. N. Kohli, Superintendent appeared for the respondent department and has no objection.

5. The Government has examined the matter carefully. It is observed that the Commissioner (Appeals) has rejected the appeal on the ground that the Applicant herein did not make the mandatory pre-deposit, as per Section 129E of the Customs Act, 1962. It is not disputed that being a mandatory condition the pre-deposit ought to have been made. The Applicant has claimed that requisite pre-deposit had been made and the Commissioner (Appeals) did not take the notice thereof while passing

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the impugned order. A copy of TR-6 Challan No. 1169 dated 21.10.2019, evidencing the same, has been placed on record. Subject to verification thereof, it would be in the interest of justice that the matter is remanded to Commissioner (Appeals) with a direction to decide the appeal afresh, on merits.

6. In view of the above, the revision application is allowed by way of remand to Commissioner (Appeals), with directions as above.



(Sandeep Prakash)

Additional Secretary to the Government of India

Sh. Khalid Ali,
H.No. 43, Kh. No. 37/23, Block - A/2,
Dharmapura Nazafgarh
New Delhi 110043.

Order No. 55/2022-Cus dated 21-02-2022

Copy to:

1. The Commissioner (Appeals), CGST, Excise & Customs, Jaipur, NCRB Statue Circle, Jaipur – 302005.
2. The Commissioner of Customs, Customs Commissionerate Jodhpur (Hqrs at Jaipur), NCRB, Statue Circle, C-Scheme, Jaipur – 302005.
3. Sh. S.S. Arora, Advocate, NB 1/71, Safdarjung Enclave, new Delhi 110029.
4. PA to AS(RA)
5. Guard File.
6. Spare Copy

ATTESTED



(लक्ष्मी राघवन)
(Lakshmi Raghavan)
अधिकांशिकी / Section Officer
वित्त मंत्रालय (राजस्व विभाग)
Ministry of Finance (Deptt. of Rev.)
भारत सरकार / Govt of India