

SPEED POST



F.No. 375/24/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.. 8/1/2020.....

Order No. 6-7/2020-19 Cus dated 02/01/2020 ~~2019~~ of the Government of India passed by Smt. Mallika Arya, Principal Commissioner & 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/Air/527-528/2017 dated 28.11.2017 passed by the Commissioner of Customs (Appeals), New Customs House, Near IGI Airport, Delhi-110037

Applicant (1) : Mrs. Renu Kapoor

Applicant (2) : Mr. Vijay Kapoor

Respondent : Commissioner of Customs, IGI- Airport, T-3, New Delhi

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ORDER

Two Revision Application Nos. 375/23/B/2018-RA and 375/24/B/2018-RA both dated 27.03.2018 have been filed by Mrs. Renu Kapoor (hereinafter referred to as the Applicant-1) and Mr. Vijay Kapoor (hereinafter referred to as the Applicant-2) respectively against the Order-in-Appeal No. CC(A)Cus/D-I/Air/527-528/2017 dated 28.11.2017 passed by the Commissioner of Customs (Appeals), New Customs House, Near IGI Airport, Delhi-110037. Commissioner (Appeals) vide the above mentioned Order-in-Appeal has rejected the appeals of both the applicants on the ground that the applicant did not pay mandatory pre-deposit of 7.5% as per Section 129 (E) of the Customs Act, 1962.

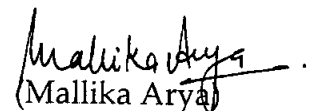
2. The brief facts of the case are that the Applicant-1 along with Applicant-2 (husband of Applicant-1) arrived from Bangkok on 14.04.2014 at Terminal-3 IGI Airport, Delhi and Applicant-1 was intercepted near the exit gate of arrival hall after she had crossed the customs green channel. On being asked by the Customs officers whether she was carrying any dutiable items, she replied in negative. Thereafter, she was directed to pass through the door frame metal detector (DFMD) and a beep sound was emanated. After personal search one gold Kada, one gold chain and eight gold bangles were recovered from her possession which were concealed in poly pouch in her jaggings worn under salwar. The gold articles cumulatively weighing 2000 grams valued at Rs. 50,89,890/- were examined by the Jewellery Appraiser at IGI airport. On being asked, she disclosed that the Applicant-2 was her husband and accompanied her during the journey. Applicant-1 in her statement recorded under Section 108 of the Customs Act, 1962 admitted the recovery of gold articles from her possession and further stated that she and her husband (Applicant-2) had purchased the said gold articles from Bangkok. However, Applicant-1 could not produce any supporting evidence in support of licit possession of recovered gold. In the statement recorded under section 108 of the Customs Act 1962, both the Applicant-1 and Applicant-2 further stated that gold articles were brought for making a profit on the same. She was well aware of the Indian customs procedure, but she did not declare the same at Red channel. Both the applicants admitted their mistake of not declaring the gold at Red channel in their statement tendered under section 108 of Customs Act, 1962.

3. The revision application has been filed on the grounds that they could not deposit the pre deposit amount due to hardships and poverty. Further proper time was not granted for the deposit of the mandatory deposit of 7.5%.

4. Personal hearing was fixed on 09.12.2019 and 30.12.2019 in this case. Neither the applicants nor the respondent appeared on either of the dates nor any communication requesting for adjournment has been received from either the applicant or the respondent. Therefore, the case is being taken up for final disposal.

5. Government has examined the matter. It is observed that the Commissioner (Appeals) has rejected the appeal on the ground that the applicants did not pay mandatory pre-deposit of 7.5% as per Section 129 (E) of the Customs Act, 1962. Government is of the view that the pre-deposit of 7.5% of duty and penalty amount involved is a mandatory condition before an appeal can be entertained by the Commissioner (Appeals) for decision. As regards the contention of the applicants that they were not granted proper time to deposit the mandatory amount is not tenable since the appeals before the Commissioner (Appeals) in both the cases was filed on 17.12.2015. The final hearing before the Commissioner (Appeals) was held on 07.11.2017 and Order-in-Appeal was subsequently passed on 28.11.2017. There has been gap of approximately two years since the appeals was filed before the Commissioner (Appeals) and the date of final hearing on which the appeal was heard. The applicants had ample time to deposit the mandatory pre-deposit amount as prescribed under Section 129(E) of Customs Act, 1962 which they have not done. No evidence has been produced by the applicants before the Government that they have deposited the pre-deposit amount as mandated under Section 129(E) of the Customs Act, 1962. Since, the mandatory condition of pre-deposit has not been fulfilled, Government holds that the revision application is not maintainable.

5. Accordingly, the revision applications filed by both the applicants are rejected.


(Mallika Arya)

Additional Secretary to the Government of India

1. Mrs. Renu Kapoor, W/o Sh. Vijay Kapoor, R/o 16/93, Geeta Colony New Delhi -110031.
2. Mr. Vijay Kapoor, R/o 16/93, Geeta Colony, New Delhi -110031

Order No. 6-7/2020-19-Cus dated 02/01/2020
~~2019~~

Copy to:

1. The Commissioner of Customs, IGI Airport Terminal-3, New Delhi-110037
2. The Additional Commissioner of Customs, IGI Airport Terminal-3, New Delhi-110037
3. The Commissioner of Customs (Appeals), New Custom House, Near IGI Airport, New Delhi-110037
4. PA to AS(RA)
5. Guard File.
6. *Space Copy.*

ATTESTED

Rohit Mudgal
(Rohit Mudgal)
Superintendent (R. A.)
02/01/2020