

**REGISTERED
SPEED POST**



F. No. 375/37/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 21/03/2022

Order No. 70/22-Cus dated 02-03-2022 of the Government of India passed by Shri 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/889/2019-20 dated 28.02.2020 passed by the Commissioner of Customs (Appeals), New Delhi.

Applicant : Sh. Kamil, Delhi.

Respondent : The Commissioner of Customs, IGI Airport, New Delhi.

ORDER

A Revision Application No. 375/37/B/2020-R.A. dated 08.05.2020 has been filed by Sh. Kamil, Delhi (hereinafter referred to as the Applicant) against the Order-in-Appeal No. CC(A)CUS/D-I/Airport/889/2019-20 dated 28.02.2020 passed by the Commissioner of Customs (Appeals), New Delhi. The Commissioner (Appeals) has upheld the Order-in-Original No. 205-Adj/AS/JC/2017 dated 05.10.2017, passed by the Joint Commissioner of Customs, IGI Airport, Terminal-3, New Delhi vide which 27 articles of gold collectively weighing 775 grams, valued at Rs. 19,84,876/-, which were seized from the Applicant, were absolutely confiscated under Section 111(d), 111(i), 111(j), 111(l) & 111(m) of the Customs Act, 1962 and a penalty of Rs. 4,00,000/- has also been imposed on the Applicant under Section 112 & 114AA of the Act, ibid. The Commissioner (Appeals) has, vide the impugned Order-in-Appeal, rejected the appeal filed by the Applicant.

2. Briefly stated, the Applicant had arrived at IGI Airport, New Delhi, on 20.05.2015, from Dubai. He was intercepted by the customs officers near the exit gate of the Arrival Hall after he had crossed the Customs Green Channel and was enquired whether he was carrying any dutiable goods to which he replied in negative. X-Ray of his checked-in-baggage resulted in recovery of 27 pieces of 24 carat gold articles, collectively weighing 775 grams and valued at Rs. 19,84,876/-, concealed in various plastic toys and drawer locks. In his statement dated 21.05.2015, tendered under Section 108 of the Customs Act, 1962, the Applicant herein admitted the recovery of the gold articles from the toys and locks carried by

him. He also admitted that the said goods were handed to him by one Sualeen in Sharjah which were to be delivered to one Saabreen in Delhi and that he was not disclosed that the toys contained gold inside them. The original authority confiscated the gold items absolutely and imposed a penalty of Rs. 4 Lakhs on the Applicant. Being aggrieved, the Applicant filed an appeal before the Commissioner (Appeals) which was rejected.

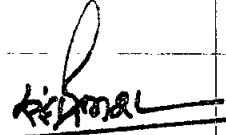
3. The revision application has been filed, mainly, on the grounds that since the Applicant was merely a carrier and had no knowledge of concealment of gold. Hence, the penalty may either be set aside or reduced.

4. Personal hearing, in virtual mode, was held on 02.03.2022. Sh. S.S. Arora, Advocate appeared for the Applicant reiterated the contents of the RA. Sh. Arora submitted that the Applicant was merely a carrier who had no knowledge of gold being carried by him. Hence, the penalty may be reduced. None appeared for the department nor any request for adjournment has been received. Therefore, the matter is taken up for disposal based on records.

5. The Government has carefully examined the matter. The only contention of the Applicant, at this stage, is that the penalty imposed may be reduced as he was simply a carrier of the gold items and had no knowledge of concealment. The Government observes that, in terms of Section 123 of Customs Act 1962, in respect of the gold and manufactures thereof, the burden of proof that such goods are not

smuggled is on the person, from whom goods are recovered. In the present case, the gold articles were undisputedly recovered from the Applicant and were not declared, as required under Section 77 of Customs Act, 1962. As such, the Applicant cannot shirk the burden placed on him by law, by baldly contending that he had no knowledge of the gold articles being carried by him. The Applicant, thus, failed to discharge the burden placed on him, in terms of Section 123, ibid. However, keeping in view the facts and circumstances of the case, the penalty imposed is reduced to Rs. 2,50,000/-.

6. The revision application is disposed of in the above terms.



(Sandeep Prakash)

Additional Secretary to the Government of India

Sh. Kamil,
S/o Sh. Badruddin,
R/o P12 DDA Flats,
Turkman Gate, Delhi - 110006.

Order No. 7D/22-Cus dated 02-03-2022

Copy to:

1. The Commissioner of Customs, IGI Airport, Terminal-3, New Delhi - 110037.
2. The Commissioner of Customs (Appeals), New Customs House, Near IGI Airport, New Delhi - 110037.
3. Sh. S.S. Arora, Advocate, B1/71, Safdarjung Enclave, New Delhi - 110029.
4. PA to AS(RA)
5. Guard File.
6. Spare Copy.

ATTESTED

आशीष तिवारी / ASHISH TIWARI
सहायक आयुक्त / Assistant Commissioner
केन्द्रीय वस्तु एवं सेवा कर, केन्द्रीय उत्पाद एवं सीमा शुल्क
CGST, Central Excise & Customs
राजस्व विभाग / Department of Revenue
वित्त मंत्रालय / Ministry of Finance
भारत सरकार / Government of India
नई दिल्ली / New Delhi