

**SPEED POST**



F. No. 373/450/B/2019-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 28/2/23

Order No. 70/123-Cus dated 27.02.2023 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 C. Cus. I No. 53/2017 dated 21.03.2017, passed by the Commissioner of Customs (Appeals-I & II), Chennai.

Applicant : Smt. Anees Fathima Bande Niwaz, Chennai.

Respondent : The Pr. Commissioner of Customs, Chennai-I (Airport), Chennai.

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**ORDER**

A Revision Application No. 373/450/B/2019-RA dated 06.11.2019 has been filed by Smt. Anees Fathima Bande Niwaz, Chennai (hereinafter referred to as the Applicant), against the Order-in-Appeal C. Cus. I No. 53/2017 dated 21.03.2017, passed by the Commissioner of Customs (Appeals-I & II), Chennai. The Commissioner (Appeals) has, vide impugned Order-in-Appeal, upheld the Order-in-Original No. 147/2016-17 (AIRPORT) dated 22.11.2016, passed by the Additional Commissioner of Customs, Chennai, except to the extent of setting aside the penalty of Rs. 5,000/- imposed under Section 114AA of the Customs Act, 1962 on the Applicant herein.

2. Brief facts of the case are that the Applicant herein arrived at Chennai Airport from Dubai, on 15.06.2016, and was intercepted by the Customs Officers at the exit gate of the arrival hall after she had passed through the green channel. On search of her person, she was found to be wearing two semi-finished gold chains of 24 carat purity, totally weighing 259 gms and collectively valued at Rs. 7,92,281/-. The Applicant had not declared the same to the customs and was not in possession of any valid document/permit/license for legal import thereof. She also did not have foreign currency to pay the requisite customs duty. In her voluntary statement, recorded under Section 108 of the Customs Act, 1962, the Applicant admitted that she was not the owner of the gold and was smuggling the same for monetary consideration of Rs. 5,000/-. After following the principles of natural justice, the original authority, vide aforesaid Order-in-Original dated 22.11.2016, ordered absolute confiscation of the semi-finished gold chains under Section 111 (d) & (l) of the Customs Act, 1962. Penalties of Rs. 75,000/- and Rs. 50,000/- were also imposed on the Applicant, under Section 112 (a) and Section 114AA, respectively, of the Customs Act, 1962. The appeal filed by the Applicant herein has been rejected by the Commissioner (Appeals), except to the extent of dropping the penalty imposed under Section 114AA. The Applicant thereafter filed an appeal before CESTAT, which has been rejected as non-maintainable by the CESTAT, Chennai Bench, vide Final Order No. 41761/2018 dated 08.06.2018.

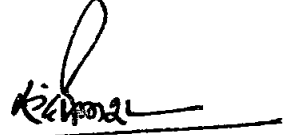
3. The revision application has been filed along with an application for condonation of delay. It has been submitted that the impugned Order-in-Appeal has been passed without appreciating the relevant material on record, applicable laws and without considering the submissions made by the Applicant; that the Applicant was in parda and, therefore, the chains being below the parda cannot be treated as concealment; that the Applicant had never accepted the charge of smuggling and a retraction was sent vide letter dated 09.08.2016; that the Applicant had sufficient foreign currency to pay the duty; and that she was eligible to import the gold chains.

4. Personal hearing in the matter was fixed on 20.01.2023, 08.02.2023 and 27.02.2023. In the hearing held on 27.02.2023, in virtual mode, Sh. Arunkungumaraj, Advocate appeared for the Applicant and reiterated the contents of the RA. Upon being pointed out that the subject revision application has been filed on 06.11.2019 whereas the CESTAT had rejected the appeal as non-maintainable, vide Order dated 08.06.2018, Sh. Arunkungumaraj stated that the CESTAT's Order was received by them only on 22.06.2018. He requested that condonation of delay application may be decided accordingly. No one appeared for the Respondent department on any of the dates fixed for hearing nor any request for adjournment has been received. Therefore, it is presumed that the department has nothing to add in the matter.

5. The Government has carefully examined the matter. As per revision application, the Applicant had received the copy of the Order-in-Appeal impugned herein on 01.04.2017 whereas the present revision application has been filed on 06.11.2019. It would appear from records that, in the interim, Applicant had approached the CESTAT against the said Order-in-Appeal but the same was rejected by the CESTAT as not maintainable, vide Final Order dated 08.06.2018. It is admitted that the CESTAT's Order dated 08.06.2018 was received by the Applicant on 22.06.2018. Therefore, even if the period spent in pursuing the remedy before a wrong forum, i.e., CESTAT is excluded by following the principles of Section 14 of the Limitation Act, 1963, the revision application has been filed with a delay of about one year and four months. In terms of sub-section (2) of Section 129DD of the Customs Act, 1962, the revision application shall be made within three months from the

date of communication of the order against which the application is being made. As per proviso to the said sub-section (2), the Central Government may, if it is satisfied that the Applicant was prevented by sufficient cause from presenting the application within the aforesaid period of three months, allow it to be presented within further period of three months. Therefore, in terms of Section 129DD, a revision application can be filed within a maximum period of six months from the date of communication of the Order-in-Appeal, including the condonable period of three months. In the present case, the revision application has been filed much beyond the condonable period of three months and, therefore, is liable to be rejected as time barred.

6. The revision application is, accordingly, rejected as time barred.



(Sandeep Prakash)

Additional Secretary to the Government of India

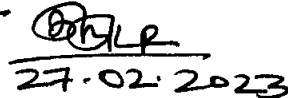
Smt. Anees Fathima Bande Niwaz,  
Old No. 29, New No. 8,  
Dr. Natesan Salai, 3<sup>rd</sup> Lane,  
Triplicane, Chennai-600005.

Order No. 70/123-Cus dated 27.2.2023

Copy to:

1. The Pr. Commissioner of Customs, Chennai-I (Airport), New Custom House, GST Road, Meennambakkam, Chennai-600027.
2. The Commissioner of Customs (Appeals-I), New Custom House, Meenambakkam, Chennai-600027.
3. Sh. Arunkumaraj & Associates, Door No. 37/16 3<sup>rd</sup> Floor, KVB Bank Building Whites Road, Peters Colony, Royapettah, Chennai-600014.
4. PPS to AS(RA).
5. Guard file.
6. Spare Copy.
7. Notice Board.

ATTESTED



27.02.2023

(लक्ष्मी राघवन)  
(Lakshmi Raghavan)  
अनुभाग अधिकारी / Section Officer  
वित्त मंत्रालय (राजस्व विभाग)  
Ministry of Finance (Deptt. of Rev.)  
भारत सरकार / Govt. of India  
नई दिल्ली / New Delhi