

REGISTERED
SPEED POST



F. No. 375/38/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. 04/03/22

Order No. 71/22-Cus dated 04-03-2022 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/104/2019-20 dated 19.05.2020 passed by the Commissioner of Customs (Appeals), New Delhi.

Applicant : Sh. Ravi Kumar, New Delhi.

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

ORDER

A Revision Application No. 375/38/B/2020-R.A. dated 26.06.2020 has been filed by Sh. Ravi Kumar, New Delhi (hereinafter referred to as the Applicant) against the Order-in-Appeal No. CC(A)CUS/D-I/Airport/104/2019-20 dated 19.05.2020 passed by the Commissioner of Customs (Appeals), New Delhi. The Commissioner (Appeals) has upheld the Refund Order No. 23/2018-19/2015 dated 04.09.2018, passed by the Assistant Commissioner of Customs, IGI Airport, Terminal-3, New Delhi.

2. Briefly stated, the Applicant had arrived at IGI Airport, New Delhi, on 26.05.2014, from Dubai and 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 if he was carrying any dutiable goods to which he replied in negative. In his Customs Declaration Form, he had declared 'NIL' against the column specifying total value of dutiable

goods imported and 'No" against the column specifying gold jewellery and gold bullion carried by him. His personal search resulted in the recovery of one gold chain and one gold kara, collectively weighing 658 grams and valued at Rs. 16,76,742/-. In his statement tendered under Section 108 of Customs Act, 1962, the Applicant admitted the recovery of the said gold items from him. He further stated that the gold items were purchased by him from Dubai and to avoid paying duty on them, he deliberately did not report at the Red Channel. The Additional Commissioner, vide Order-in-Original No. 146 Adj/2015 dated 28.10.2015, confiscated the offending gold items under Sections 111(d), 111(j), 111(l) and 111(m) of the Customs Act, 1962 but extended an option to redeem the same on payment of Rs. 3.25 lakhs as fine and an equal amount as penalty along with applicable customs duty. The offer of redemption was to cease after three months of the receipt of the OIO. The applicant failed to deposit the fine/penalty/duty within the stipulated time of three months as ordered by the

original authority and the subject gold items were disposed of by the department after inventorisation on 02.03.2017. The Applicant filed a refund application for refund of the disposal proceeds of the gold items, which was rejected by the AC (Refunds) vide Refund Order No. 23/2018-19 dated 04.09.2018. Aggrieved, the Applicant filed an appeal before the Commissioner (Appeals), which has been rejected vide the impugned OIA.

3. The revision application has been filed, mainly, on the grounds that the Applicant visited Customs office at the airport for release of the offending goods but the same was not permitted; that in response to his letter dated 08.03.2018, the Applicant was advised by the Preventive Unit to seek refund of Rs. 6,40,202/-; that, however, the refund claim has been rejected on the grounds that he failed to exercise the option of redemption within three months as per OIO dated 28.10.2015; and that the sale proceeds of the gold items disposed of by the

Department should be given to the Applicant as no notice was issued to him conveying the disposal of the goods.

4. Personal hearing, in virtual mode, was held on 02.03.2022. Sh. S.S. Arora, Advocate appeared for the Applicant and reiterated the contents of the RA. 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. It is not in dispute that the OIO dated 28.10.2015 was conditional, as it allowed redemption of the goods within three months of the receipt of the OIO. No evidence has been produced by the Applicant that he approached the Customs authorities within three months of the receipt of the OIO to redeem the gold items. It is also evident from the records that the first communication was made by the Applicant vide a letter dated 08.03.2018, for refund of the sale proceeds, which is far beyond three months' time given to him as per the OIO. Thus,

the offer of redemption had lapsed by the time the Applicant approached the concerned authorities in the matter. As such, no infirmity is found in the orders of the lower authorities.

6. The revision application is rejected.


(Sandeep Prakash)

Additional Secretary to the Government of India

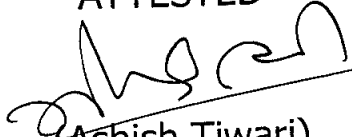
Sh. Ravi Kumar,
S/o Sh. Prem Chand,
R/o H. No. C5/7, Upper Ground Floor,
Rana Pratap Bagh, New Delhi – 110007.

Order No. 71/22-Cus dated 04-03-2022

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


(Ashish Tiwari)
Assistant Commissioner (RA)