

SPEED POST



F. No. 373/160/B/2018-RA
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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 06/03/23

Order No. 82-83/23-Cus dated 06-03-2023 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 Applications filed, under Section 129 DD of the Customs Act 1962 against the Orders-in-Appeal No. 67/2018 dated 27.04.2018 and No. 64/2018 dated 27.04.2018 passed by the Commissioner of Customs (Appeals-I), Chennai.

Applicant : 1. Sh. Rahu Sinnathamby, Ontario, Canada.
2. Sh. Ashkar Kalathil Vadakkayil, Kannur, Kerala.

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

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ORDER

Revision Applications bearing Nos. 373/160/B/2018-RA and 373/161/B/2018-RA, both dated 15.05.2018 have been filed by Sh. Rahu Sinnathamby, Ontario, Canada and Sh. Ashkar Kalathil Vadakkayil, Kannur, Kerala (hereinafter referred to as the Applicant-1 & 2, respectively), against the Order-in-Appeal No. 67/2018 and No. 64/2018, both dated 27.07.2018, respectively, passed by the Commissioner of Customs (Appeals-I), Chennai. Vide the aforesaid Orders-in-Appeals, the Commissioner (Appeals) has upheld the Order-in-Original No. 231/2017-18 dated 23.02.2018 and No. 203/2017-18 dated 18.01.2018, passed by the Joint Commissioner of Customs (Adjudication-Air), Chennai in the matters of Applicant-1 & 2, respectively, to the extent of absolute confiscation of the seized gold articles/ bars & concealing materials and imposition of penalty under Section 112 of the Customs Act, 1962. However, the penalties imposed, on the Applicants herein, under Section 114AA of the Act, *ibid*, have been set aside by the Commissioner (Appeals).


2. Briefly stated, Applicants arrived at Chennai Airport on 23.03.2017 and 30.03.2017, respectively. 04 nos. of thick crude gold strips & 01 thick rectangular crude gold pendant, totally weighing 2307 gms, collectively valued at Rs. 68,72,553/-, were recovered from the Applicant-1, concealed under the sleeves of shirt/coat, in his socks, hanged with orange color thread around his neck. 12 gold bars of 24 carat, totally weighing 1398 gms, valued at Rs. 41,40,876/-, were recovered from Applicant-2, concealed in one mobile phone cover wrapped black color adhesive tape. The original authority ordered absolute confiscation of the gold/gold articles recovered from Applicant-1 & 2, under Sections 111 (d) and (l) of the Customs Act, 1962. Penalty of Rs. 6,50,000/- and Rs. 4,00,000/-, respectively, were imposed on the Applicant-1 & 2 under Section 112 of the Customs Act, 1962 while penalties of Rs. 50,000/- and 40,000/-, respectively, were imposed on Applicant-1 & 2 under Section 114AA of the Customs Act. The appeals filed by the Applicants herein have been partly allowed vide the impugned Orders-in-Appeals, as mentioned in Para 1, above.

3. The revision applications have been filed, mainly, on the grounds that the gold articles/ bars should have been allowed to be redeemed for re-export and with a prayer to set aside or reduce the personal penalties imposed under Section 112, of the Act, *ibid*.

4. Personal hearing in the matter was fixed for 03.03.2023. No one appeared for either side nor any request for adjournment has been received. However, Smt. Kamalamalar Palanikumar, Advocate, on behalf of the Applicants herein, vide emailed letter dated 03.03.2023, submitted various contentions in support of their claim for redemption of confiscated gold for re-export and requested to pass order accordingly.

5. The Government has carefully examined the matter. In terms of sub-section (3) of Section 129DD of the Customs Act, 1962, a revision application "shall be accompanied by a fee" of Rs.1,000/- where the amount of duty and interest demanded, fine or penalty levied is more than Rs. 1,00,000/-. In the present case, the Applicants have been visited with the penalties in excess of Rs.1,00,000/-. Therefore, the subject revision applications ought to have been accompanied by a fee of Rs. 1,000/- each, in terms of aforesaid sub-section (3) of Section 129DD. However, the Applicants herein, have deposited a fee of Rs. 200/- only. They have failed to deposit the balance RA fee of Rs. 800/- despite advice letter dated 17.02.2023. Further, the submissions dated 03.03.2023 made on behalf of the ~~Applicants~~ ^{Applications} are conspicuously silent on this issue. Thus, it is apparent that the Applicants have neither deposited the requisite RA fee nor are they inclined to do so. As the applications have been pending for about 05 years, no useful purpose will also be served by granting any further opportunities for rectification.

6. In view of the above, the subject revision applications are rejected, without traversing the merits of the respective cases.



(Sandeep Prakash)

Additional Secretary to the Government of India


1. Sh. Rahu Sinnathamby,
C/o Sh. Sinnathamby
No. 68, Glanvil-Crescent, Toronto,
Ontario, Canada, Postal Code – M1b4r4
2. Sh. Ashkar Kalathil Vadakkayil,
S/o Late Sh. Abdulla Kalathi Vadakkayil,
Mooriyad Post, Kannur, Kerala - 670643

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Copy to:

1. The Pr. Commissioner of Customs, Chennai-I (Airport), New Customs House, GST Road, Meenambakkam, Chennai-600027
2. The Commissioner of Customs (Appeals-I), 60, Rajaji Salai, Customs House, Chennai-600001.
3. Smt. Kamalamalar Palanikumar, Advocate, No. 10, Sunkurama Street, Chennai – 600001, Mobil - 9841050029.
4. PPS to AS(RA).
5. Guard File.
- ✓ 6. Spare Copy.
7. Notice Board.

ATTESTED


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