

SPEED POST

**F. No. 372/24/B/2021-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.....10/3/22.....

Order No. 85/22-Cus dated 2022 of the Government of India passed by Sh. Sandeep Prakash, Additional Secretary to the Government of India, under Section 129DD of the Customs Act, 1962.

Subject : Revision Application filed under Section 129 DD of the Customs Act 1962 against the Order-in-Appeal No. 06-7/CUS(A)/GHY/2021 dated 29.07.2020 passed by the Commissioner of Customs (Appeals), Guwahati.

Applicant : Sh. Murli Naraindas Talreja, Thane.

Respondent : The Commissioner of Customs (Prev.), Shillong.

ORDER

A Revision Application No. 372/24/B/2021-RA dated 11.10.2021 has been filed by Sh. Murli Naraindas Talreja, Thane (hereinafter referred to as the Applicant) against the Order-in-Appeal No. 06-7/CUS(A)/GHY/2021 dated 29.07.2020, passed by the Commissioner of Customs (Appeals), Guwahati. The Commissioner (Appeals) has upheld the Order-in-Original No. COM/CUS/ADDL.COMMR/07/2020 dated 15.01.2020, passed by the Additional Commissioner of Customs, Shillong, wherein two rough gold pieces, in the form of one neck chain and one bangle, collectively weighing 469.95 grams and valued at Rs. 15,00,080/-, recovered from the Applicant, were absolutely confiscated and a penalty of Rs. 1.5 lakhs was also imposed on the Applicant.

2. Brief facts of the case are that the Applicant was intercepted at Imphal International Airport, while trying to board a flight to Guwahati on 20.10.2018, and two rough gold pieces (one in neck chain form and the other in bangle form), collectively weighing 469.95 grams and valued at Rs. 15,00,080/-, worn by him, were recovered. He could not produce any licit documents in support of legal possession, importation and transportation of the gold items. In his statement tendered under Section 108 of Customs Act, 1962,

the Applicant admitted the recovery of the gold items. He also stated that the said gold was not his and he was acting on the instructions of one Pawan Tolani. The Additional Commissioner of Customs absolutely confiscated the gold items and imposed a penalty of Rs. 1.5 Lakhs on the Applicant and Rs. 2 Lakhs on Sh. Pawan Tolani. Aggrieved, the Applicant filed an appeal before Commissioner (Appeals) who has upheld the OIO, relating to the Applicant, vide the impugned OIA.

3. The instant revision application has been filed, mainly, on the grounds that the statement of the Applicant was recorded under duress; that he was the owner of the said gold which was purchased from abroad against a purchase bill which was shown to the customs officers; that the gold items were worn by him and it was not a case of concealment; and that the gold may be released on payment of duty, fine and nominal penalty.

4. The personal hearing was held on 09.03.2022, in virtual mode. Sh. Om Prakash Rohira, Advocate, appeared for the Applicant and reiterated the contents of the Revision Application. He highlighted that Commissioner (Appeals) himself had found that it is not a case of concealment but still redemption has been denied. None appeared for the respondent department nor any request for adjournment has been received. Hence, the matter is taken up for disposal on the basis of records available.

5. The Government has carefully examined the matter. It is observed that the offending gold items were recovered from the Applicant herein, while he was boarding a domestic flight. There is nothing on record to indicate that the seized gold was part of "import or export in baggage". Hence, the matter is not covered by the first proviso to Section 129A (1) of the Customs Act, 1962. As such, the revision application is non-maintainable under Section 129DD *ibid*.

6. In view of the above, the revision application is rejected as non-maintainable.


(Sandeep Prakash)

Additional Secretary to the Government of India

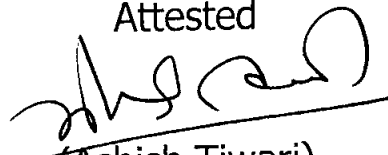
Sh. Murli N Talreja,
C/o O M Rohira, Advocate,
148/301, Uphaar, 10th Road, Khar(W),
Mumbai-400 052.

Order No. _ 85/22-Cus dated 10-03-2022

Copy to:

1. The Commissioner of Customs, NSCBI Airport, Kolkata.
2. The Commissioner of Customs (Appeals), 15/1, Strand Road, Customs House, Kolkata-700001.
3. Sh. Om Prakash, Advocate, 3248/71, Mohali-16071, Punjab.
4. PA to AS(RA).
5. Guard File.
6. Spare Copy.

Attested


(Ashish Tiwari)

Assistant Commissioner (RA)