

SPEED POST



F. No. 375/35/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. 23/03/22

Order No. 33 /22-Cus dated 23-03-2022 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 Application filed, under Section 129DD of the Customs Act 1962 against the Order-in-Appeal No. CCA(A)Cus/D-I/Air/390/2018 dated 18.10.2019 passed by the Commissioner of Customs (Appeals), NCH, New Delhi

Applicant : Shri. Gaurav, New Delhi.

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

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ORDER

A Revision Application No. 375/35/B/2020-RA dated 11.03.2020 has been filed by Shri Gaurav, New Delhi (hereinafter referred to as the Applicant) against the Order-in-Appeal No. CCA(A)Cus/D-I/Air/390/2018 dated 18.10.2019 passed by the Commissioner of Customs (Appeals), New Delhi. The Commissioner (Appeals) has, vide the impugned Order-in-Appeal, rejected the appeal filed by the applicant herein against the Order-in-Original No. 86/AS/JC/2018 dated 28.02.2018, passed by the Joint Commissioner (Customs), IGI, New Delhi, on the grounds of pre-deposit not having been made.

2. Briefly stated, the Applicant herein arrived at IGI Airport, New Delhi from Mumbai, on 05.04.2017. He was intercepted after he had crossed the green channel near the exit gate. Upon his personal search and search of his baggage, two cut pieces of gold, totally weighing 500 gms and valued at Rs. 13,50,478/-, were found concealed in his rectum. The original authority, vide the aforesaid Order-in-Original dated 28.02.2018, ordered absolute confiscation of the offending gold, under Sections 111 (d), 111 (i), 111 (j), 111 (l), 111 (m) & 111(o) of the Customs Act, 1962. Penalty of Rs. 2,50,000/- was also imposed under Sections 112 and 114 AA of the Customs Act. The Appeal filed by the Applicant herein has been rejected by the Commissioner (Appeals) on the ground that no pre-deposit of 7.5% of the duty/penalty has been made, as required in terms of Section 129 E of the Customs Act, 1962.

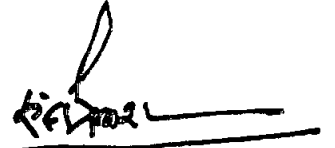
3. The Revision Application has been filed, mainly, on the ground that the requisite pre-deposit has been made vide TR 6 Challan dated 21.05.2018; and that the Commissioner (Appeals) has passed his order without giving them any opportunity for hearing. Several contentions on merits have also been raised.

4. Personal hearing, in virtual mode, was held on 23.03.2022. Ms. Prabhjyoti Kaur, Advocate appeared for the Applicant and submitted that the Commissioner (Appeals) has rejected the appeal on the grounds of pre-deposit not having been made. However, the pre deposit of requisite amount of Rs. 18,750/- was made vide Challan dated 21.05.2018 i.e. much before the appeal was decided. Hence, the matter may be remanded to Commissioner (Appeals) for decision on merits. No one appeared for the Respondent department nor any request for adjournment has been received.

5. The revision application has been filed with a delay which is attributed to delay in obtaining the copy of the challan evidencing pre-deposit having been made. Delay is condoned.

6. The Government has carefully examined the matter. The appeal has been rejected by the Commissioner (Appeals) on the grounds that the requisite pre-deposit, in terms of Section 129 E of the Customs Act 1962, was not made by the Applicant herein. On the other hand, the Applicant has placed on record a copy of the TR-6 Challan dated 21.05.2018 evidencing deposit of Rs. 18,750/-, against the aforesaid Order-in-Original dated 28.02.2018. Subject to verification of requisite pre-deposit having been made, it would be in the interest of justice that the matter is remanded to Commissioner (Appeals) for de-novo consideration and decision on merits, after following the principles of natural justice.

7. The revision application is, accordingly, allowed by way of remand to the Commissioner (Appeals), with directions as above.



(Sandeep Prakash)

Additional Secretary to the Government of India

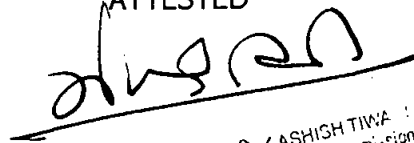
Sh. Gaurav,
R/o M-52, Street No. 4,
New Mahavir Nagar,
Tilak Nagar
Delhi-110018.

Order No. 93/22-Cus dated 23-03-2022

Copy to:

1. The Commissioner of Customs (Appeals), New Customs House, New Delhi-110037;
2. The Commissioner of Customs, IGI Airport, New Delhi;
3. Sh. D.S. Chadha, Advocate, 92 GF Block V, Eros Garden, Faridabad-121009.
4. PS to AS(RA).
5. ~~Guard file.~~
6. Spare Copy.

ATTESTED



आशीष तिवारी / ASHISH TIWARI
सहायक आयुक्त / Assistant Commissioner
केन्द्रीय वस्तु एवं सेवा कर, केन्द्रीय उत्तम 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