

SPEED POST



F. No. 373/20/B/2018-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..15/03/23

Order No. 96/23-Cus dated 15-03-2023 of the Government of India passed by Shri 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 AIRPORT. C.Cus.I. No. 115/2017 dated 27.06.2017, passed by the Commissioner of Customs (Appeals-I), Chennai.

Applicant : Sh. Mohamed Tajudeen, Chennai.

Respondent : Pr. Commissioner of Customs, Chennai-I, Chennai.

.....

ORDER

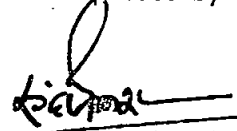
Revision Application No. 373/20/B/2018-RA dated 27.11.2017 has been filed by Sh. Mohamed Tajudeen, Chennai (hereinafter referred to as the Applicant) against the Order-in-Appeal AIRPORT. C.Cus.I. No. 115/2017 dated 27.06.2017, passed by the Commissioner of Customs (Appeals-I), Chennai. The Commissioner (Appeals) has, vide the impugned Order-in-Appeal, upheld the order of the Additional Commissioner of Customs, Airport, Chennai, bearing Order-in-Original No. 189/2016-17-AIRPORT dated 30.12.2016, except to the extent of setting aside penalty imposed on the Applicant herein under Section 114AA of the Customs Act, 1962 and setting aside the absolute confiscation of the impugned gold jewellery and allowing re-export on payment of redemption fine of Rs. 4,00,000/-. Vide the aforementioned Order-in-Original, assorted gold jewellery of 22 carat purity, totally weighing 586.3 gms, collectively valued at Rs. 17,48,346/-, recovered from the Applicant, were absolutely confiscated under Sections 111(d) & 111(l) of the Act, *ibid*. Besides penalties of Rs. 1,75,000/- & Rs. 10,000/- were also imposed on the Applicant under Sections 112(a) & 114AA, respectively, of the Act, *ibid*.

2. Brief facts of the case are that the Applicant arrived at Chennai Airport, on 08.09.2016, from Sharjah and was intercepted by customs officers at the exit of the arrival hall, after he had passed through the Green Channel. Upon questioning as to whether he was carrying any dutiable/prohibited, he replied in negative. He did not file any Customs Declaration Form. On examination of his person, five transparent polythene covers containing assorted yellow metal jewellery items were found concealed in the underwear worn by him. The Government of India approved gold appraiser certified the recovered yellow coloured metallic jewellery to be gold of 22 carat purity, totally weighing 586.3 grams and appraised the value at Rs. 17,48,346/-. The Applicant in his statement, tendered under Section 108 of the Customs Act, 1962, recorded immediately after seizure, *inter-alia*, stated that he had been working as an Administrative Officer in Hellmann Worldwide Logis, in Dubai and earned around 3000 UAE Dirhams per month; that he was not in possession of any legal/valid documents for the legal import of the gold or any foreign/Indian currency to pay customs duty; that the gold jewellery items were not his own; that the gold items were carried by him for delivery to some prospective buyers; that he took orders, advance payments from those prospective buyers in Tamil Nadu and got the jewellery made in Dubai for delivery to them; that he had not carried any money from India and he got the gold from Sh. Baris Khan whom he used to meet in the market place in Dubai and sell the same in his native place for making some profit and would hand over the amount to the person known to him; that in order to avoid paying duty, he had attempted to smuggle the gold by way of concealing it in his underwear and not declaring it to customs.

3. The revision application has been filed, mainly, on the grounds that the Applicant is the absolute owner of the gold jewels and it is evident from the bills and payments made by him through his credit card; that he is an eligible passenger and can import upto 1 Kg of gold and there is no necessity of paying duty for the imported goods; and that he is not a frequent traveller and is not a carrier also and there was no bad antecedents against him.

4. Personal hearing in the matter was fixed on 26.12.2022 which was adjourned to 01.03.2023 at the request of Applicant. The hearing fixed on 01.03.2023 was also adjourned to 15.03.2023 at the request of the Applicant. Being last and final opportunity, the request for further adjournment has been denied.

5. The Government has carefully examined the matter. It is observed that the Respondent department had filed a Revision Application against the Order-in-Appeal impugned herein and the said RA has already been decided by the Revisionary Authority at Mumbai in the year 2018, vide GOI Order No. 784-804/2018-CUS(SZ)/ASRA/MUMBAI dated 28.09.2018. In these circumstances, the instant revision application has been rendered infructuous. The revision application is disposed of, accordingly, without traversing the merits of the case and without in any way approving the Order passed by the Commissioner (Appeals).



(Sandeep Prakash)

Additional Secretary to the Government of India

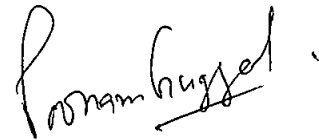
Sh. Mohamed Tajudeen
C/o Sh. A. Ganesh, Advocate,
'F' Block, 179, Anna Nagar,
Chennai-600102.

Order No. 96/23-Cus, dated 15-03-2023

Copy to:

1. The Pr. Commissioner of Customs, Commissionerate-I, Chennai Airport and Air Cargo Complex, New Custom House, Meenambakkam, Chennai-600027.
2. The Commissioner of Customs (Appeals-I), Chennai Airport & Chennai Air Cargo, 3rd Floor, New Custom House, GST Road, Meenambakkam, Chennai-600016.
3. Sh. A. Ganesh, Advocate, F Block 179, IV Street, Annanagar, Chennai-600102.
4. PPS to AS(RA)
5. Guard File
6. Spare Copy
7. Notice Board

ATTESTED



पूनम गुग्गल / Poonam Guggal Page 3 | 3
अधीक्षक / Superintendent (R.A. Unit)
वित्त मंत्रालय / Ministry of Finance
राजस्व विभाग / Department of Revenue
Room No. 605, 6th Floor, B-Wing
14, Hudco Vishala Building, Bhikaji Cama Place
New Delhi-110066