

**SPEED POST**



**F. No. 372/10/B/2021-R.A.  
GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(DEPARTMENT OF REVENUE)**

14, HUDCO VISHALA BLDG., B WING  
6<sup>th</sup> FLOOR, BHIKAJI CAMA PLACE,  
NEW DELHI-110 066

Date of Issue 24/3/22

Order No. 97 / 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 Customs Act, 1962.

SUBJECT : Revision Application filed under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal No. KOL/CUS(Airport)/AKR/107/2021 dated 29.01.2021, passed by the Commissioner of Customs (Appeals), Kolkata.

APPLICANT : Shri Vinod Kumar Pareek, Howrah.

RESPONDENT: Commissioner of Customs (Airport & Admn.), Kolkata.

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**ORDER**

A Revision Application No. 372/10/B/2020-R.A. dated 30.03.2021 has been filed by Shri Vinod Kumar Pareek, Howrah (hereinafter referred to as the Applicant) against Order-in-Appeal No. KOL/CUS (Airport)/AKR/107/2021 dated 29.01.2021, passed by the Commissioner of Customs (Appeals), Kolkata. The Commissioner (Appeals) has, vide the impugned Order-in-Appeal, upheld the Order-in-Original No. 46/2019 JC dated 05.12.2019, passed by the Joint Commissioner of Customs, AIU, Kolkata.

2. Brief facts of the case are that the Applicant herein arrived at NSCBI Airport, Kolkata, from Bangkok, on 27.03.2018. While he was passing through Green Channel near the exit gate, he was asked by the Customs Officers whether he was carrying any dutiable items or gold items to which he replied in negative. Thereafter upon a search of his baggage and of his personal search, 4 pieces of gold of foreign origin wrapped with white coloured tissue paper and adhesive tapes, which were kept concealed in cigarette packs, were recovered. The gold bars, collectively weighing 1703 grams and valued at Rs. 51,60,090/-, were seized under Section 110 of the Customs Act, 1962. In his statement dated 27.03.2018, tendered under Section 108 of the Customs Act, 1962, the Applicant admitted that he had attempted to smuggle the seized gold bars of foreign origin which were concealed in the cigarette packs, for a monetary consideration of Rs. 10,000/-. The original authority, vide the Order-in-Original dated 05.12.2019, ordered for absolute confiscation of the seized gold bars under Sections 111(d), 111(i) and 111(l) of the Customs Act, 1962. A penalty of Rs. 13,00,000/- was also imposed on the Applicant herein



record that the Applicant retracted from his statement dated 27.03.2018. In any case, the Hon'ble Supreme Court has, in the case of Surjeet Singh Chabra vs. Union of India {1997(89)ELT 646(SC)}, held that a confession statement made before a Customs Officer, even though retracted, is an admission and is binding upon the person concerned. The contention that there is no mens-rea is also not borne out of records. The manner of concealment and the fact of non-declaration clearly establish that the Applicant had attempted to smuggle gold in a premeditated manner. As such, the Applicant is liable to penalty under Section 112 of the Customs Act, 1962. The quantum of penalty imposed is also just and fair in the facts and circumstances of the case.

5. In view of the above the Revision Application is rejected.



(Sandeep Prakash)

Additional Secretary to the Government of India

To,

Sh. Vinod Kumar Pareek,  
S/o Sh. Onkarmal Pareek,  
51/2/E, Rabindra Sarani, Liluah  
Howrah- 711204.

Order No. 97/22-Cus dated 23-03-2022

**Copy to:-**

1. The Commissioner of Customs (Airport), NSCBI Airport, Kolkata-700052.
2. The Commissioner of Customs (Appeals), 15/1, 3<sup>rd</sup> Floor, Strand Road, Customs House, Kolkata-700001.
3. P.S TO A.S (RA)
4. ~~Guard File~~
5. Spare Copy

ATTESTED



(लक्ष्मी राघवन)  
(Lakshmi Raghavan)  
एक्ज़क्यूटिव्ह / Section Officer  
डि. व. विभाग (राजस्व विभाग)  
Ministry of Finance (Deptt. of Rev.)  
भारत सरकार / Govt. of India  
नई दिल्ली / New Delhi