

**SPEED POST**



F. No. 373/395-A/B/SZ/2019-RA  
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.. 03/05/24

Order No. 100/24-Cus dated 03-05-2024 of the Government of India passed by Smt. Shubhagata Kumar, Additional Secretary to the Government of India, under Section 129DD of the Customs Act, 1962.

Subject : Revision Applications under Section 129 DD of the Customs Act, 1962, against the Order-in-Appeal No. HYD-CUS-000-APP-150-17-18 dated 26.03.2018, passed by the Commissioner of Customs & Central Tax (Appeals-I), Hyderabad.

Applicant : Shri K. Bhaskar Reddy, Ranga Reddy, Telangana

Respondent : The Principal Commissioner of Customs, Hyderabad

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**ORDER**

A Revision Application No. 373/395-A/B/SZ/2019-RA dated 30.09.2019 has been filed by K. Bhaskar Reddy, Ranga Reddy District, Telangana (hereinafter referred to as the Applicant) against the Order-in-Appeal No. HYD-CUS-000-APP-150-17-18 dated 26.03.2018, passed by the Commissioner of Customs & Central Tax (Appeals-I), Hyderabad. He is one of four persons involved in the case. The Commissioner (Appeals) has upheld the Order-in-Original passed by the Additional Commissioner of Customs, Hyderabad Customs Commissionerate, Hyderabad, bearing no. 05/2017-Adjn.Cus(ADC) dated 31.01.2017 vide which the Applicant was penalized for abetting smuggling under Section 112(b)(i) of the Customs Act, 1962. Out of the four persons in the matter, only the Applicant filed an appeal before the Commissioner (Appeals) which has been rejected. Shri K. Bhaskar Reddy, the Applicant in the instant case has filed the Revision Application aggrieved against the said O-I-A dated 26.03.2018 in respect of the penalty of Rs. 10,00,000/- imposed on him under Section 112(b)(i) of the Customs Act, 1962.

2. The adjudicating authority vide the aforementioned Order-in-Original No. 05/2017-Adjn.Cus(ADC) dated 31.01.2017, had absolutely confiscated eight kilograms of gold of 99.5% purity totally valued at Rs. 2,20,00,000/- seized under panchnama dated 25.05.2015, under Section 111(d), 111(i) and 111(j) of the Customs Act, 1962 (hereinafter referred as the Act); confiscated the material objects i.e. cello tape (NCV) used for concealing the same, under section 118 of the Act; confiscated the seized Indian currency of Rs. 3,50,000/- from one Mazhar Ali under panchnama dated 25.05.2015; imposed penalties of Rs. 10,00,000/- each on Mazhar Ali, P. Raminaidu and the Applicant under Section 112(b)(i) of the Act. Penalties of Rs. 10,00,000/- under Section 112(a)(i) and Rs. 5,00,000/- under Section 114AA of the Act were also imposed on Mohammed Zubair Shabbir Gaima. Aggrieved, K. Bhaskar Reddy, the Applicant, had filed appeal to the appellate authority in respect of penalty of Rs. 10,00,000/- imposed on him under Section 112(b)(i) of the Customs Act, 1962 which was rejected vide said OIA. Accordingly, the present revision application has been filed.

3. Brief facts of the case are that acting on specific intelligence, officers of DRI had intercepted two persons i.e. the Applicant in this case and Pedada Raminaidu, who were employees of the security wing of GMR Hyderabad International Airport Ltd while they were handing over imported gold in packages to Mohammed Mazhar Ali. On the basis of further investigation made, it was found that the said gold had been brought by an international passenger Mohammed Zubair Shabbir Gaima who arrived from Dubai on 25.05.2015 post-midnight and that the gold had been smuggled out of the airport area in connivance with the Applicant and Pedada Raminaidu. The said two persons collected the gold from the passenger Mohammed Zubair Shabbir Gaima in the toilet of the arrival area before immigration office and the impugned gold was being handed over to Mohammed Mazhar Ali in the car parking area when officers of DRI intercepted them. The gold recovered from the said persons including the Applicant weighed 8 Kgs and valued at Rs. 2,20,00,000/-. The officers also intercepted the passenger Mohammed Zubair Shabbir Gama while he was exiting from the airport. On the basis of further enquiries made, it was ascertained that Mohammed Mazhar Ali had hatched a conspiracy along with the Applicant and Pedada Raminaidu and one Rafiuddin stationed in Dubai to send gold illegally through passengers to India and to smuggle out gold using the modus operandi as unearthed in the case to avoid detection by Customs. It was further found that the gold was to be handed by Mohammed Mazhar Ali, after having collected it from the Applicant and Pedada Raminaidu, back to Mohammed Zubair Shabbir Gaima, the passenger for the purposes of further transportation and delivery to pre-arranged persons in Mumbai as per the instructions of the said Rafiuddin.

4. The revision application has been filed, mainly, on the grounds that the appellate authority grossly erred in believing the statements of others against the Applicant in as much as the same were retracted; that lower authorities failed to appreciate that the record prepared by the officials of DRI is contrary to facts and circumstances; the Customs Officers do not have jurisdiction outside the Customs area and that the order under revision is illegal, against the weight of the evidence and probabilities as such is liable to be set aside.

5. Personal hearings in the matter were fixed on 15.04.2024 and 01.05.2024. But, no one appeared either from the Applicant's side or the Respondent's side nor has any request for adjournment been received in the matter. Therefore, the matter is taken up for decision based on the available records.

6. The Government has examined the matter. As per sub-section (3) of Section 129DD, *ibid*, a revision application shall be accompanied by a fee of Rs. 1,000/- when the amount of duty and interest demanded, fine or penalty levied by an officer of customs, in the case to which the application relates, is more than One Lakh Rupees. The use of word 'shall' in the said sub-section (3) makes it apparent that the requirement of fee is mandatory. It is observed that the Applicant has not paid the mandatory fee even though penalty involved in the subject case is in excess of Rs. 1,00,000/-. Moreover, no request for condonation of delay has been filed by the Applicant. Further, as per sub-section (2) of Section 129DD *ibid*, a revision application shall be made within 03 months from the date of communication to the Applicant of the order against which the application is being made. In the present case, the revision application has been filed much beyond the normal period of 03 months and it is observed that there is a delay of 449 days in filing the instant RA. These issues have already been communicated to the Applicant for rectification *vide* letters dated 09.04.2024 and 19.04.2024 respectively but nothing has been heard back from the Applicant. Therefore, the subject revision application is not maintainable as it does not meet the requirements under Section 129DD of the Customs Act, 1962.

7. The revision application is, accordingly, rejected as non-maintainable.

  
(Shubhagata Kumar)

Additional Secretary to the Government of India

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Order No. 100/24-Cus dated 03-05-2024

Copy to:

1. The Commissioner of Customs & Central Tax (Appeals-I), 7<sup>th</sup> Floor, GST Bhavan, L.B Stadium Road, Basheerbagh, Hyderabad-500004
2. The Principal Commissioner of Customs, GST Bhavan, L.B Stadium Road, Hyderabad-500004.
3. PPS to AS (RA).
4. Guard file.
- ✓ 5. Spare Copy
6. Notice Board

ATTESTED



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