

SPEED POST



F. No. 375/54/B/2020-R.A.
375/55/B/2020-R.A.
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 05/04/22

ORDER NO. 119-120/22-Cus dated 05-04-2022 of the Government of India, passed by 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. 422 & 423 (CRM) CUS/JPR/2019 dated 09.12.2019, passed by the Commissioner(Appeals), Central Excise & CGST, Jaipur.

APPLICANT : 1. Smt. Praveen Shahin, Delhi.
2. Sh. Shahpuddin Malik, Delhi.

RESPONDENT : Commissioner of Customs, Jaipur.

ORDER

Two Revision Applications, bearing Nos. 375/55/B/2020-R.A. and 375/54/B/2020-R.A., both dated 23.09.2020 have been filed by Smt. Praveen Shahin, Delhi and Sh. Shahbuddin Malik, Delhi (referred to as the Applicant 1 and Applicant 2, respectively), respectively, against Order-in-Appeal No. 422 & 423 (CRM) CUS/JPR/2019 dated 09.12.2019, passed by the Commissioner (Appeals), Customs, Central Excise & CGST, Jaipur. Commissioner (Appeals) has upheld the order of the Assistant Commissioner of Customs, International Airport, Jaipur, bearing No. 05/2019-CUS(AC) dated 30.04.2019, whereby 84.8 kgs of Red Sanders Wood, which was recovered from Applicant 1 and Smt. Shama (a co-passenger), has been absolutely confiscated under Section 113(d), 113(e), 113(h) and 113(i) of the Customs Act, 1962. A penalty of Rs. 1 lakh/- has also been imposed on the Applicant 1 and of Rs. 2 lakhs on Applicant 2, under Section 114(i) of the Customs Act, 1962.

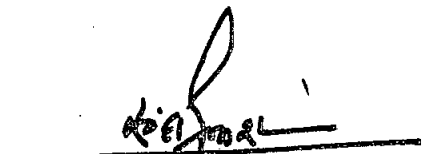
2. Brief facts of the case are that the Applicant 1, along with Smt. Shama (a co-passenger) was scheduled to depart for Dubai, by Flight SG 057, on 30.03.2017, from International Airport, Jaipur. On search of their baggage, 84.8 kgs of Red Sanders Wood valued at Rs. 3,76,889/-, a prohibited item, was recovered. Applicant 1, in her statement dated 30.03.2017, tendered under Section 108 of the Customs Act, 1962, stated that the wood consignment was given to her by Applicant 2, to be delivered to a person in Dubai in exchange for visa and ticket for Dubai. Applicant 2 herein, in his statement dated 30.03.2017, tendered under Section 108 of the Customs Act, 1962, stated that one Bablu had given the consignment to him for delivery in Dubai for which he would give Rs. 15,000/- per passenger along with travel expenses. Being a prohibited item, the Red Sanders Wood consignment was confiscated absolutely by the Assistant Commissioner of Customs, Jaipur and a penalty of Rs 1 lakh and Rs. 2 lakhs was imposed on Applicant 1 and 2, respectively. Aggrieved, the Applicants filed appeals before the Commissioner (Appeals), which have been rejected.

3. The revision application has been filed, mainly, on the grounds that the offending goods are only restricted goods and not prohibited goods; and that penalty imposed on the Applicants may be waived or reduced.

4. Personal hearing was held on 01.04.2022, in virtual mode. Sh. N. K. Baksh, Advocate, appeared for the Applicants. He stated that at this stage, his only prayer is that the penalty imposed may be reduced. Sh. B. B. Atal, AC, appeared for the respondent department supported the orders of the lower authorities.

5. The Government has examined the matter carefully. The lower authorities have brought out that the export of Red Sanders Wood (*Pterocarpus Santalinus*) in any form, is prohibited under the S. No. 188, HS Code 44039918 or 44079990 of Schedule 2 of Export Policy read with Appendix-II of the CITES Convention. No material has been brought on record to contradict this position. In any case, during the personal hearing, the prayer has been limited to the reduction in penalty imposed. The Government observes that the present case relates to attempted smuggling of endangered species of flora. Thus, the offence of Applicants herein is not merely an economic offence but is also an offence against the environment. Hence, in the facts and circumstances of the case, the amount of penalty imposed by the lower authorities appears to be just and fair.

6. The revision applications are rejected.



(Sandeep Prakash)

Additional Secretary to the Government of India

1. Smt. Parveen Shahin,
R/o 1/258, Gali No. 1, Shri Ram Nagar,
Shahdara, Delhi-110 032.

2. Sh. Shahabuddin Malik,

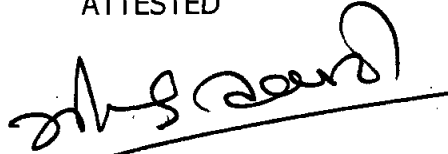
R/o A-31/150H, Street No. 3, Gurudwara Mohalla,
Maujpur, Delhi-110 053.

Order No. _ 119 - 120/22-Cus dated 05-04-2022

Copy to:

1. The Commissioner (Appeals), Central Excise & CGST, NCRB, Statue Circle, Jaipur.
2. The Commissioner of Customs, NCRB, Statue Circle, Jaipur.
3. Sh. N. K. Baksh, Advocate, Chamber No. 435, Patiala House Court, New Delhi-110 001.
4. PA to A.S.(RA).
5. Guard File.
6. Spare Copy.

ATTESTED



(Ashish Tiwari)
Assistant Commissioner (RA)