SPEED POST

F. No. 373/116/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 03/07/24

Order No. 120/24-Cus dated 03-07-2024 of the Government of India passed by Smt. Shubhagata Kumar, Additional Secretary to the Government of India, under section 129DD of the Custom Act, 1962.

Subject	:	Revision Applications, filed under Section 129 DD of the Customs Act 1962, against the Order-in-Appeal No. Airport. Cus.I No. 32,33&34/2020 dated 20.01.2020, passed by the Commissioner of Customs (Appeals-I), Chennai.
Applicants	:	Sh. R. Harish, Chennai
Respondent	:	Pr. Commissioner of Customs, Chennai

ORDER

Revision Application, bearing No. 373/116/B/2020-RA dated 02.06.2020, has been filed by Sh. R. Harish, Chennai (hereinafter referred to as the Applicant), against the Orders-in-Appeal No. Airport. Cus.I No. 32,33&34/2020 dated 20.01.2020, passed by the Commissioner of Customs (Appeals-I), Chennai. The Commissioner (Appeals) has upheld the Order-in-Original passed by the Joint Commissioner of Customs, (Adjudication-Air), Chennai, bearing no. 268/2018-19-Commissionerate-I dated 15.02.2019, ordering absolute confiscation of 28 gold bars weighing 11.8 Kgs & gold jewellery weighing 4603 grams, totally weighing 16403 grams and collectively valued at Rs. 4,59,67,152/- recovered from one J. Kumar under Sections 111(d), (i), (l) & (l) of the Customs Act, 1962. Besides, a penalty of Rs. 1,00,000/- was also imposed on the Applicant by the original authority along with penalties of Rs. 1,00,000/- imposed on 5 different persons and penalty of Rs. 45,00,000/- on one Anandraj, under Section 112 (b) of the Act ibid. The Commissioner (Appeals) has increased the penalty amount imposed upon the applicant from Rs. 1,00,000/- to Rs. 20,00,000/-, increased the penalty amount imposed upon one J.Kumar from Rs. 1,00,000/- to Rs. 15,00,000/- and increased the penalty amount imposed upon one T. Nandagopalan from Rs. 1,00,000/- to Rs. 5,00,000/-.

2. Brief facts of the case are that the officers of Air Intelligence Unit of Customs, Chennai Airport intercepted one J. Kumar, on 21.08.2017, who was driving a baggage tractor with three baggage trolleys attached to it but was carrying only one piece of baggage in one of the said three baggage trolleys as remaining two trolleys were empty. Upon enquiry he informed that he was carrying one baggage which had arrived from Indigo Airlines Flight No. 6E 054 dated 21.08.2017 to the Domestic Arrival Side. Upon questioning the reason for such carrying of the baggage and whether he had the permission from any authority for carrying such baggage which had arrived from the International Flight to the Domestic Arrival Side, he replied in the negative. Thereafter, upon scanning of the said baggage dark images of suspicious nature were noticed from the inside of the baggage. Thereafter, the officers broke open the lock of the baggage and subjected it to physical examination. On examination the officers found one black coloured CPU Cabinet kept along with other personal effects which was found to be unusually heavy. As such, the officer opened the top panel of the said CPU and found it to contain

10 transparent polythene pouches and 01 peach coloured plastic box. Upon opening of the 10 transparent pouches, yellow coloured multi coloured metal chains, bracelets and earrings were found. Thereafter upon opening the above said peach coloured plastic box, 10 large sized yellow-coloured metal bars with markings and 18 small sized yellow-coloured metal bars with markings were found. The officer further found 04 transparent polythene pouches in the peach-coloured plastic box and were found to contain multi coloured metal chains. Thereafter, the Government of India licenced Assayer examined the aforesaid items and certified them to be of gold of purity varying from 18 carat to 24 carat as mentioned in para above.

3. The revision application has been filed by the Applicant mainly on the grounds that the Respondent did not consider the present case at full stretch of its merits; that the applicant is a law abiding citizen and is totally innocent; that he did not have any bad antecedent in the past; that the appellate authority had no power to issue show cause notice to the applicant for proposing enhancement of personal penalty. It is further prayed to set aside both the orders of lower authorities and fully set aside the personal penalty.

4. Personal hearings in the matter was fixed on 12.06.2024 & 21.06.2024. No one appeared for either side nor any request for adjournment has been received. Since sufficient opportunities have been granted the matter is being decided on the basis of available case records.

5. The Government has examined the matter. The Government observes that, in terms of sub-section (2) of the Section 129DD, a revision application shall be made within three months from the date of the communication of the order against which the application is being made. In the present case, the OIA impugned herein was received by the Applicant on 28.02.2020. The instant revision application has been filed on 02.06.2020, after a delay of 5 days from the normal period of limitation. As per sub-section (2) of the Section 129DD of the Customs Act, 1962, an application under sub-section (1), i.e., revision application can be made within 3 months from the date of communication of the order against which the application is being made. However, proviso to said sub-section (2) provides discretion to the Government to allow an application to be

presented within a further period of 3 months if the Government is satisfied that the Applicant was prevented by sufficient cause from presenting the application within the normal period of 3 months. In the present case, no application for condonation of delay has been submitted by the applicant showing sufficient cause despite reminders dated 06.06.2024 & 13.06.2024. Therefore, the Applicant has failed to comply with the proviso to said sub-section (2) of Section 129DD. The revision application is thus rejected on grounds of limitation without traversing the merits of the case.

6. The revision application is rejected as barred by limitation.

3/7/24

(Shubhagata Kumar)
Additional Secretary to the Government of India

1. Smt. R. Harish
   S/o Sh. R. Ramani
   No. 26/9, Kesava Perumal West Street
   Mylapore, Chennai-600004.

Order No. 120/24-Cus dated 03-07-2024

Copy to:

1. The Commissioner of Customs (Appeals-I), Chennai Airport & Air Cargo, 3rd floor, New Custom House, GST Road, Meenambakkam, Chennai – 600016
2. The Principal Commissioner of Customs, Commissionerate-I, Chennai-I (Airport), New Custom House, Meenambakkam, Chennai-600027
3. Sh. K. Mohamed Ismail, BABL, Advocate & Notary Public, New No. 102, Linghi Chetty Street, Chennai-600001.
4. PPS to AS (RA).
5. Guard file.
6. Spare Copy
7. Notice Board

Shailendra 03/07/24

ATTESTED

(शैलेन्द्र कुमार मीना)
(Shailendra Kumar Meena)
अनुभाग अधिकारी / Section Officer
वित्त मंत्रालय (राजस्व विभाग)
Ministry of Finance (Deptt. of Rev.)
भारत सरकार / Govt. of India
नई दिल्ली / New Delhi