

SPEED POST



F. No. 373/72/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..18/07/24....

Order No. 137 /24-Cus dated 18-07-2024 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 Application, filed under Section 129 DD of the Customs Act 1962 against the Order-in-Appeal No. C.Cus.I No. 163/2019 dated 05.09.2019 passed by the Commissioner of Customs (Appeals-I), Chennai.

Applicant : Sh. Mathievannan Paramalingam, United Kingdom

Respondent : Pr. Commissioner of Customs, Chennai-I

.....

ORDER

A Revision Application, bearing No. 373/72/B/2020-RA dated 06.03.2020, has been filed by Sh. Mathievannan Paramalingam, United Kingdom (hereinafter referred to as the Applicant), against the Order-in-Appeal No. C.Cus.I No. 163/2019 dated 05.09.2019, passed by the Commissioner of Customs (Appeals-I), Chennai, vide which the Commissioner (Appeals) has modified the Order-in-Original of the Joint Commissioner of Customs, Anna International Airport, Chennai bearing No. 195/2018-19-Commissionerate-I dated 22.12.2018. Vide the aforementioned Order-in-Original, one crude gold chain, two gold bars of 24 carat purity, one gold kada of 22 carat purity, totally weighing 2950 grams and collectively valued at Rs. 92,08,350/-, recovered from the Applicant, had been held liable to confiscation under Section 111(d) & 111(l) of the Customs Act, 1962, however, they were allowed to be redeemed on payment of fine of Rs. 40,00,000/-. Besides, penalty of Rs. 9,00,000/- was also imposed on the Applicant, under Section 112(a) of the Act, *ibid.*

2. Brief facts of the case are that the applicant was intercepted by Customs officers on 21.05.2019 upon his arrival from London to Chennai when he was passing through green channel towards the exit of the arrival hall of the airport. Upon being asked as to whether he was carrying any dutiable goods or gold/gold jewellery either in his baggage or on his person, he replied in the negative. Not convinced, the officers brought him to the AIU room for a detailed examination of his baggage and personal search, he was again asked whether he was in possession of any gold/contraband item either in his baggage or on his person, he again replied in the negative. Upon the search of his baggage, nothing incriminating was found. However, upon the search of his person one yellow colour metal chain worn by him around his neck, two yellow colour metal bars kept inside his pant pocket and one yellow colour metal Kada worn by him covered with his full sleeve shirt were found. The Government of India approved assayer examined the aforesaid items and certified them to be one crude gold chain of 24 carat weighing 2300 grams, one crude gold bar of 24 carat purity weighing 500 grams, another crude gold bar of 24 carat weighing 100 grams and one gold kada of 22 carat weighing 50 grams. Total 2950 grams of gold was recovered which was appraised at Rs. 92,08,350/-. The applicant in his statement, recorded after seizure stated inter-alia that gold kada of 22 carat weighing 50 grams belonged to him and the rest was handed over to him by his friend Mr. Mohan in

London with instruction to smuggle the same by evading the Customs detection and hand over the same to an unknown person who would come and collect the same from his hotel room where he would be staying. The matter was adjudicated by the original authority vide the aforesaid order dated 22.12.2018. Aggrieved, he filed an appeal before the Commissioner (A) which has been modified.

3. The revision application has been filed mainly on the grounds that his statement was obtained under duress; that he produced the bills for the purchase of gold during interception; that he was intercepted in the arrival hall of Customs which was prior to making the declaration; and that he was wearing his personal jewellery and brought the gold weighing 600 grams which was purchased for his personal and bonafide use of making jewellery for his wife and he did not conceal the gold as he kept it in his pant pocket for safety.

4. Personal hearing in the matter was held on 17.05.2024. Sh. Kulasekharan, Advocate appeared for the applicant and submitted that the applicant is a citizen of UK and brought around 3 Kgs of gold jewellery which was worn by him. He admitted that no Customs Declaration Form was filed as the same was not available, that though the OIA has allowed re-export and reduced penalty, the OIA should nevertheless be set aside as also the fine and penalty. He further stated that the applicants are fighting in court for restoration of their OCI card which was seized and not returned to them, and that a favourable order from the revisionary authority would held them in securing a favourable verdict in the OCI matter in court. He accepted that OCI matters do not figure as a valid matter under section 129DD. No one appeared from the side of Respondent, however, a written submission dated 17.05.2024 has been received from the side of Respondent which has been taken on record.

5. The Applicant has filed an application for condonation of delay. The date of communication of OIA is 10.09.2019 whereas the date of filing of revision application is 06.03.2020. Thus, there is an inordinate delay of 86 days. The reason cited for delay in filing the revision application is that the applicant was prevented from complying with the order of the original adjudicating authority in not entering India which has not been

substantiated with any documents. No evidence has been produced to establish that he was prevented from entering India. In any case, there are several means available which could have been used to file revision application in time. 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, in terms of the proviso to sub-section (2) the Government may 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 conspectus of the facts and circumstances, the Government is constrained to hold that the applicant has been unable to show "sufficient cause" as required under Section 129DD of the Customs Act, 1962. 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.

Shubhagata Kumar
18/7/24

(Shubhagata Kumar)

Additional Secretary to the Government of India

Smt. Mathievannan Paramalingam
S/o Sh. Paramalingam
#21, Dudlay Road
Harrow Middlesex, HAZ OPS1
United Kingdom

Order No. 137/24-Cus dated 18-07-2024

Copy to:

1. The Commissioner of Customs (Appeals-I), Chennai Airport & Chennai Air Cargo, 3rd Floor, New Custom House, GST Road, Meenambakkam, Chennai-600016.
2. The Pr. Commissioner of Customs, Anna International Airport, Meenambakkam, Chennai-600027.
3. Sh. B. Kumar, Consultant, B.K Associates, #117/55, Egmore High Road, Chennai-600008.
4. PPS to AS(RA).
5. Guard File.
- ✓ 6. Spare Copy.
7. Notice Board.

Shailendra Kumar Meena
18/7/24
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