

**SPEED POST**



**F. No. 375/13/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 23/05/22

Order No. 149 / 22-Cus dated 20-05-2022 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. CC(A)/CUS/D-I/Air/799/20-21 dated 09.12.2020, passed by the Commissioner of Customs (Appeals), NCH New Delhi.

**APPLICANT :** Shri Mohd. Husain, Saharanpur.

**RESPONDENT:** The Commissioner of Customs, IGI Airport, New Delhi.

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**ORDER**

A Revision Application No. 375/13/B/2021-R.A. dated 15.02.2021 has been filed by Shri. Mohd. Husain, Saharanpur (hereinafter referred to as the Applicant) against Order-in-Appeal No. CC(A)Cus/D-I/Air/799/2020-21 dated 09.12.2020, passed by the Commissioner of Customs (Appeals), NCH, New Delhi. The Commissioner (Appeals) has, vide the impugned Order-in-Appeal, rejected the Appeal filed by the Applicant herein against the Order-in-Original No. 446/Adjn./2018 dated 30.10.2018, passed by the Additional Commissioner of Customs, IGI Airport, New Delhi, as time barred.

2. Briefly stated, the Applicant herein arrived at IGI Airport, New Delhi, from Abu Dhabi, on 09.12.2017, and opted for Green Channel. He was intercepted by the Customs officers at the exit gate. During personal and baggage search of the Applicant, 6 gold bars, weighing 700 grams and valued at Rs. 19,00,025/-, were recovered, which were concealed inside the batteries of 3 emergency lights. The Applicant in his voluntary statements dated 09.12.2017 and 29.12.2017, tendered under Section 108 of the Customs Act, 1962, admitted the recovery of gold from him and stated that the recovered gold did not belong to him; and that he had carried it in lieu of free tickets from Riyadh to New Delhi via Abu Dhabi. The original authority, vide the aforesaid Order-in-Original dated 30.10.2018, ordered for absolute confiscation of the subject gold bars under Section 111(d), 111(i), 111(j), 111(l), 111(m) & 111(o) of the Customs Act, 1962. A penalty of Rs. 3,81,000/- was also

imposed on the Applicant, under Sections 112 and 114AA of the Act, *ibid*. The appeal filed by the Applicant has been rejected by the Commissioner (Appeals), on the grounds of limitation.

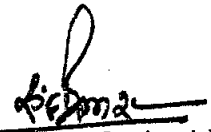
3. The Revision Application has been filed claiming that the Order dated 30.10.2018 of the original authority was sent by Speed Post to the Applicant on 14.11.2018, which was received by him on 19.11.2018. Therefore, the Commissioner (Appeals) has erred in considering the date of communication as 05.11.2018 and, consequently, holding the appeal to be barred by the limitation. Several submissions have been made on merits as well.

4. Personal hearing in the matter was held on 20.05.2022. Shri. Mohd. Husain, Applicant, appeared in person. He submitted that the gold did not belong to him and he carried it unknowingly. Therefore, he does not claim the gold. None appeared for the Respondent department nor any request for adjournment has been received.

5. The Government has examined the matter carefully. The appeal filed by the Applicant herein has been rejected by the Commissioner (Appeals), on the grounds of limitation, without considering the merits of the case. The Commissioner (Appeals) has recorded that the Order dated 30.10.2018 was communicated to the Applicant on 05.11.2018 while the appeal was filed on 10.01.2019. The appeal has, thus, been filed 65 days after the date of communication of impugned order, i.e., beyond the period of 60 days prescribed under Section 128 of the Act. Though, this period of 60 days can be extended further by 30 days if sufficient cause of delay is shown,

however, in the present case, no application for condonation of delay has been filed and hence, reasons for delay are not known. As such, the appeal has been rejected as time barred. The Government observes that the Applicant has in the instant revision application claimed that the Order of the original authority was sent by Speed Post only on 14.11.2018 and was received by him on 19.11.2018. A copy of the Speed Post receipt no. ED351162725IN has also been annexed. In case this contention of the Applicant is found to be factually correct, the appeal filed on 10.01.2019 would have to be considered to have been filed within the period of limitation prescribed under Section 128. Therefore, it would be in the interest of justice, if the matter is remanded to Commissioner (Appeals), with a direction to verify the factual position with reference to records and thereafter deal with the appeal in accordance with law.

6. The Revision Application is allowed by way of remand to the Commissioner (Appeals), with directions as above.



(Sandeep Prakash)

Additional Secretary to the Government of India

To,

Shri. Mohd. Husain,  
R/o. Village Mubarakpur,  
Post Office-Nandiforjpur,  
P.S. Dehat Kotwal,  
District Saharanpur,(UP)- 247001

Order No. 149 /22-Cus dated 20-05-2022

**Copy to:-**

1. The Commissioner of Customs, IGI Airport, Terminal-3, New Delhi-110037.
2. The Commissioner of Customs (Appeals), New Custom House, New Delhi-110037.
3. Shri. Manjeet Singh, Advocate, Flat No. B-405, New Metropolitan Plot No.33, Sector-10, Dwarka New Delhi-110075.
4. P.S to A.S (RA)
- ✓ 5. Guard File
6. Spare Copy

ATTESTED



(लक्ष्मी राघवन्)  
(Lakshmi Raghavan)  
अनुभाग अधिकारी / Section Officer  
वित्त मंत्रालय (राजस्व विभाग)  
Ministry of Finance (Deptt. of Rev.)  
भारत सरकार / Govt. of India  
नई दिल्ली / New Delhi