

SPEED POST



F. No. 373/10/B/2022-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. 25/09/24

Order No. 201/24-Cus dated 25-09-2024 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 filed, under Section 129 DD of the Customs Act 1962 against the Order-in-Appeal No. 371/2021 dated 16.09.2021 passed by the Commissioner of Customs (Appeals), Bengaluru.

Applicant : Sh. Umair Ahamed, Bhatkal.

Respondent : The Commissioner of Customs, Mangaluru.

ORDER

A Revision Application, bearing No. 373/10/B/2022-RA dated 10.01.2022, has been filed by Umair Ahamed, Bhatkal (hereinafter referred to as the Applicant) against the Order-in-Appeal No. 371/2021 dated 16.09.2021 passed by the Commissioner of Customs (Appeals), Bengaluru. The Commissioner (Appeals) rejected the appeal filed by the Applicant against the Order-in-Original passed by the Additional Commissioner of Customs, Mangaluru, bearing no. 92/2019-ADC dated 26.11.2019, ordering absolute confiscation of assorted foreign currency equivalent to Rs. 5,96,237/- recovered from the applicant, assorted foreign currency equivalent to Rs. 80,72,029/- recovered from one Hassan Shabbar & assorted foreign currency equivalent to Rs. 1,43,19,596/- under Section 113(d) of the Customs Act, 1962 and Indian currency of Rs. 8,61,200/- & Rs. 33,46,000/- recovered from other connected persons after follow up searches at different locations under Section 121 of the Customs Act, 1962. Besides penalties of Rs. 40,00,000/-, 3,00,000/-, 72,00,000/-, 10,00,000/- & Rs. 5,00,000/- were also imposed upon Hassan Shabbar, the applicant, Abdul Munaf Mulla, Mohammad Shahid Iqbal and Ibrahim Shaikh, respectively under Section 114 of the Customs Act, 1962.

2. Brief facts of the case are that on 13.12.2018, the officers of Directorate of Revenue Intelligence (DRI) received telephonic information from Circle Inspector of Bhatkal Town Police Station that two person travelling from Goa to Bhatkal by train were apprehended with huge amount of foreign currency and have been detained at Bhatkal Town Police Station. The information further indicated that the said persons were carrying the foreign currency notes without proper declaration and without valid documents to show its purchase from authorized foreign exchange dealer. Acting on the said information, the team of DRI officers reached Town Police Station, Bhatkal on 13.12.2018. The Police Sub Inspector on duty informed DRI officers that based on certain information they had detained two persons namely Hassan Shabbar and Umair Ahamad i.e the applicant herein. The SIO, DRI Regional Unit, Mangalore then caused the said foreign currency notes to be counted in presence of panchas and counted the total value of said foreign currency notes to Rs. 5,96,237/- (recovered from the applicant) and Rs.

80,72,029/- (recovered from one Hassan Shabbar). Thereafter, the officers of DRI seized the aforesaid foreign currency notes under the provisions of the Customs Act, 1962 and took the same into their possession under a Mahazar dated 13.12.2018.

The matter was adjudicated vide the aforesaid order dated 26.11.2019. Aggrieved, the Applicant filed appeal before the Commissioner (Appeals), which has been rejected.

3. The instant revision application has been filed by the Applicant mainly on the grounds that Commissioner (Appeals) had passed the OIA without giving any opportunity to the applicant to be heard in person and passes an ex-parte order; that the applicant had worked in Dubai for about 8 years and during this period he had saved from his earnings abroad and the same was brought by him on various occasions; that no attempt to take the seized goods out the country was made; that his statement was obtained under duress; and that foreign currency is not a prohibited good.

5. The revision application has been filed with a delay of 12 days beyond the normal period of limitation. The applicant has contended that he was out of station and was not in a position to approach the counsel for further necessary follow up and thereafter due to spread of Covid-19 pandemic and due to difficulty in travelling because of restrictions in place applicant was not in a position to travel to meet his counsel and to immediately follow up the appeal. The delay is condoned.

6. Personal hearing was held on 23.09.2024. Sh. Aravind Raja, Assistant Commissioner appeared for the Respondent and submitted that this case pertains to a town seizure where the local police handed the case to DRI. Therefore the RA is non-maintainable under section 129 DD. No one appeared from the applicant's side nor has any request for adjournment has been received.

7. The Government observes that the goods in question were seized from the possession of the Applicant and one other person at Bhatkal Railway Station. Therefore the instant case does not fall in the category of cases listed in the first proviso to Section

129A(1) of the Customs Act, 1962 and the revision application is not maintainable under Section 129DD.

8. In view of the above, the revision applications are rejected as not maintainable.
9. So ordered.

Shubhagata Kumar
25/9/24

(Shubhagata Kumar)

Additional Secretary to the Government of India

Sh. Umair Ahamed
S/o. Sh. Mohammed Meera Guttigar
26/2, Guttigar House, Takiya Steet
Bhatkal, Uttar Kannada District-581320

Order No. 201/24-Cus dated 25-09-2024

Copy to:

1. The Commissioner of Customs, New Customs House, Panambur, Mangaluru-575010.
2. The Commissioner of Customs (Appeals), BMTC Building, Above BMTC Bus Stand, Domlur, Bengaluru-560071.
3. Sh. Sameer Kashimji, Advocate, 22, Sweet Home Apartments, Britto Lane, Falnir, Mangaluru-575001.
4. PPS to AS(RA).
5. Guard File.
6. Spare Copy.
7. Notice Board.

Shailendra Kumar Meena
25/9/24
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