

SPEED POST



F. No. 373/288/B/2018-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. 18/9/23

Order No. 215/23-Cus dated 18.09.2023 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. HYD-CUS-000-APP-087-17-18 dated 22.09.2017 passed by the Commissioner of Customs & Central Tax (Appeals-I), Hyderabad.

Applicant : Sh. Virasath Ahmed, Hyderabad

Respondent : Pr. Commissioner of Customs, Hyderabad

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ORDER

A Revision Application No. 373/288/B/2018-RA dated 08.10.2018 has been filed by Sh. Virasath Ahmed, Hyderabad (hereinafter referred to as the Applicant), against the Order-in-Appeal No. HYD-CUS-000-APP-087-17-18 dated 22.09.2017, passed by the Commissioner of Customs & Central Tax (Appeals-I), Hyderabad. The Commissioner (Appeals) has rejected the appeal filed by the Applicant against the Order-in-Original, passed by the Additional Commissioner of Customs, Rajiv Gandhi International Airport, Hyderabad, bearing no. 137/2016-Adjn.Cus (ADC) dated 27.12.2016, wherein, assorted foreign currency amounting to Indian Rs. 1,41,50,798.50/-, recovered from the Applicant herein, was absolutely confiscated under Section 113(d) & 113(e) of the Customs Act, 1962. Besides, penalty of Rs. 14,00,000/- was also imposed on the Applicant under Section 114(i) of the Act, *ibid*.

2. Brief facts of the case are that the Applicant was found to be carrying smuggling Foreign Currencies out of India in his baggage. He was apprehended prior to his departure to Dubai from Rajiv Gandhi International Airport, Hyderabad, on 13.04.2016. He had attempted to remove Foreign Currencies from the Customs Area without making any declaration to Customs and upon oral inquiry by Customs Officers, he also denied carrying any foreign currency. The original authority ordered absolute confiscation of the offending goods and also imposed penalty of Rs. 14,00,000/-, under Section 114(i) of the Act, *ibid*, on the Applicant. Aggrieved, the Applicant filed an appeal under Section 128 of the Customs Act, 1962, which has been rejected by the Commissioner (Appeals), as above.

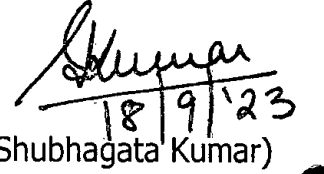
3. The instant revision application has been filed primarily on the grounds that 'currency' is not prohibited goods; that the manner in which the subject goods were kept in a stroller bag does not amount to concealment; and that imposition of penalty without any specific charge in the notice is not correct and justified.

4. Personal hearing was fixed on 11.08.2023. No one from either side appeared for the scheduled hearing on 11.08.2023. Another opportunity was granted and the personal hearing was held on 04.09.2023. Sh. Ankamma Rao, authorized representative of the Applicant, submitted that the Applicant was intercepted by DRI while travelling from Hyderabad to Dubai, he replied in the negative out of nervousness when asked if he was carrying anything restricted or prohibited by law. Upon a search of his baggage assorted currency in excess of Rs. 1 crore was found. Sh. Rao stated that this did not belong to the Applicant and that these were handed to him by his cousin, purported to be sweet boxes to be handed over to someone at Dubai; that there was no ingenious concealment; that the SCN is inadmissible and that the department did not bring out any conclusive evidence that his client was involved in smuggling. He sought waiver of penalty since goods have been absolutely confiscated.

5. The Government has carefully examined the matter. As per sub-section (3) of Section 129DD *ibid*, a revision application shall be accompanied by a fee of Rs.1000/- when the amount of duty and interest demanded, fine or penalty levied by an officer of customs in the case to which the application relates is more than one lakh rupees. The use of word 'shall' in sub-section (3) makes it apparent that the requirement of fee is mandatory. The revision application was filed about five years ago but the requisite fee

has not been paid. It is also observed that the Applicant failed to pay the requisite fee despite being repeatedly advised, vide letters dated 20.01.2020, 26.07.2023 & 11.08.2023. Therefore, Government holds that the instant revision application is not maintainable as it is not accompanied by the fee provided under Section 129DD (3).

6. The revision application is rejected for the reasons aforesaid.


18/9/23
(Shubhagata Kumar)

Additional Secretary to the Government of India

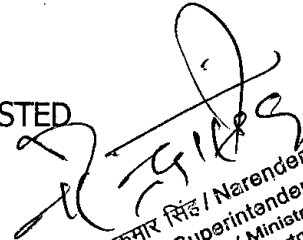
Sh. Virasath Ahmed
S/o Sh. Jameel Ahmed, 19-2-11/130
Bilal Nagar, Kalapathar, Misrigunj
Hyderabad-500053

Order No. 215 /23-Cus dated 18.09.2023

Copy to:

1. Commissioner of Customs & Central Excise (Appeals), 7th Floor, Kendriya Shulk Bhawan, L.B. Stadium Road, Basheerbagh, Hyderabad-500004.
2. Pr. Commissioner of Customs, GST Bhawan, L.B. Stadium Road, Basheerbagh, Hyderabad-500004.
3. Sh. T. Ankamma Rao, M.M Ahmed Khan, R.G Shiva Kumar, Advocates & Associates, 16-7-722, Azampura, Hyderabad-24.
4. PPS to AS(RA).
5. Guard file.
6. Spare Copy.
7. Notice Board.

ATTESTED


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