

**SPEED POST**



F. No. 372/22/B/EZ/2023-RA  
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...16/10/24.

Order No. 216/24-Cus dated 16-10-2024 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 under Section 129 DD of the Customs Act, 1962, against the Order-in-Appeal KOL/CUS/AIRPORT/KS/382/2023 dated 12.05.2023, passed by the Commissioner of Customs (Appeals), Kolkata.

Applicant : Shri Salam Alavudeen, Chennai

Respondent : The Commissioner of Customs (Airport), Kolkata

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**ORDER**

A Revision Application No. 372/22/B/EZ/2023-RA dated 18.12.2023 has been filed by Shri Salam Alavudeen, Chennai (hereinafter referred to as the Applicant) against the Order-in-Appeal KOL/CUS/AIRPORT/KS/382/2023 dated 12.05.2023, passed by the Commissioner of Customs (Appeals), Kolkata. The Commissioner (Appeals) has rejected the appeal filed by the Applicant herein against the Order-in-Original No. 09/2022/JC dated 16.02.2022, passed by the Joint Commissioner of Customs, NSCBI Airport, Kolkata.

2. Brief facts of the case are that, the Applicant, an Indian passport holder, who arrived in India at NSCBI Airport, Kolkata from Dubai on 23.12.2020, was intercepted by Customs officers while he was passing through the green channel. On being asked whether he was carrying any dutiable goods he replied in the negative. A search was carried out in the presence of independent witnesses which led to the recovery of one unfinished Bangle, one pair of payal(anklets) and one piece of long Chain with six pieces red and black beads studded in it. The recovered goods were all made of yellow coloured metal believed to be gold of foreign origin which were concealed in white coloured plastic packet with the marks "WELCOME EXPO DUBAI 2020" further kept in the front pocket of the blue coloured woolen jacket with the marks "LEGENDARY ANGLERS" worn by the passenger. The recovered goods were all ascertained by the approved valuer to be made of 23 and 24 carat gold, totally weighing 364.200 grams and collectively valued at Rs. 17,41,424/-. The passenger could not produce any licit document in support of possession/acquisition and legal importation of said recovered gold, which alongwith goods used for concealment, was seized under Section 110 of Customs Act, 1962. Statement of the Applicant was also recorded under Section 108 of the Customs Act, 1962.

3. After due process of law, the Lower Adjudicating Authority vide the aforesaid O-I-O dated 16.02.2022, absolutely confiscated the seized gold weighing 364.200 grams and collectively valued at Rs. 17,41,424/- under Section 111(d), 111(i), 111(l) and 111(m) of the Customs Act, 1962 along with material objects used to conceal the impugned gold under Section 118 and 119 of the Customs Act, 1962. A penalty of Rs. 1,00,000/- was also imposed on the Applicant under Section 112(a) and (b) of the Customs Act, 1962.

Aggrieved, the Applicant filed an appeal before the Commissioner of Customs (Appeals), Kolkata who has rejected the appeal and upheld the O-I-O. Aggrieved by the O-I-A, the Applicant filed this Revision Application.

4. The instant revision application has been filed mainly on the grounds that the order of the lower authority is against law, weight of evidence, and probabilities of the case; that the Applicant had not attempted to pass through green channel; that ownership of gold is not disputed; that no declaration card was provided; that gold is dutiable goods not prohibited under the Customs Act, 1962; option ought to have been given for the release of impugned gold under Section 125 of the Customs Act, 1962 on payment of redemption fine. It is prayed to set aside the impugned order and to permit the Applicant to re-export or release the gold and also to set aside/ reduce the penalty.

5. Personal hearing in the matter was fixed on 23.09.2024. Smt. P. Kamala Malar, Advocate appeared on behalf of the Applicant and reiterated the written submissions in RA. It was also pointed out that there is a delay of 105 days in the matter beyond the condonable period of three months as prescribed by law. No one appeared on behalf of the Respondent department and also no any request for adjournment has been received from them. Therefore, it is presumed that Respondent has nothing to add in the matter.

6. On examination of the relevant case records, it is observed that the impugned Order-in-Appeal dated 12.05.2023 was received by the Applicant on 07.06.2023 as admitted by him. The Revision Application has been received on 18.12.2023 with a delay of around 105 days beyond the expiry of three months from the date of receipt of O-I-A. In terms of 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 three months if the Government is satisfied that the Applicant was prevented by sufficient cause from presenting the application within the normal period of three months. In the present case, the revision application has been filed with a delay which is beyond the condonable period of three months and therefore it cannot be condoned.

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

*Shubhagata Kumar*  
16/10/24

(Shubhagata Kumar)

Additional Secretary to the Government of India

Shri Salam Alavudeen,  
S/o Shri Alavudeen,  
R/o Old No. 29J, New No. 42,  
Saivamuthiah Mudali Street,  
Mannady, Chennai – 600 001

Order No. 216/24-Cus dated 16-10-2024

Copy to:

1. The Commissioner of Customs (Appeals), 3rd floor, Custom House, 15/1, Strand Road, Kolkata-700001.
2. The Commissioner of Customs (Airport), NSCBI Airport, Kolkata-700052.
3. Sh. S. Palanikumar, Kameshwaran & P. Kamala Malar, Advocates, No. 10, Sunkurama Street, 2nd Floor, Chennai-600001.
4. PPS to AS (RA).
5. Guard file.
6. Spare Copy
7. Notice Board

*Shailendra Kumar Meena*  
16/10/24  
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