

SPEED POST



F. No. 380/94/B/SZ/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...19/9/23

Order No. 217/23-Cus dated 19.9.2023 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 129DD of the Customs Act, 1962, against the Order-in-Appeal No. 212/2018 dated 30.05.2018, passed by the Commissioner of Customs (Appeals), Bengaluru.

Applicant : The Commissioner of Customs, Mangaluru

Respondent : Sh. Abdul Shammi Samsuddin Goltay, Machilipatnam

ORDER

Revision Application No. 380/94/B/SZ/2018-RA dated 08.10.2018 has been filed by the Commissioner of Customs, Mangaluru (hereinafter referred to as the Applicant department), against the Order-in-Appeal No. 212/2018 dated 30.05.2018, passed by the Commissioner of Customs (Appeals), Bengaluru. The Commissioner (Appeals) has, vide the impugned Order-in-Appeal, modified the Order-in-Original No. 28/2017 ADC dated 28.11.2017, passed by the Additional Commissioner of Customs, Mangaluru Customs Commissionerate, Mangaluru and allowed release of the foreign currency i.e. 3000 USD & 5350 Euro equivalent to Rs. 5,91,158/-, which was seized from Sh. Abdul Shammi Samsuddin Goltay, Machilipatnam (hereinafter referred to as the Respondent), by imposing redemption fine of Rs. 50,000/- and reducing the penalty imposed on the Applicant under Section 114 from Rs. 1,80,000/- to Rs. 50,000/-. Vide the aforementioned Order-in-Original foreign currency equivalent to Rs. 5,91,158/-, seized from the Respondent herein, was absolutely confiscated under Section 113(d) & 113(e) of the Customs Act, 1962. Besides, penalty of Rs. 1,80,000/- was also imposed on the Respondent herein under Section 114 of the Customs Act, 1962.

2. Brief facts of the case are that the Respondent herein had been apprehended smuggling Foreign Currencies, in his baggage, before departure to Dubai from Mangaluru International Airport, on 18.02.2017. He had attempted to remove Foreign Currencies from the Customs Area without making any declaration and upon oral inquiry also denied carrying any contraband. Upon being specifically asked as to whether he was carrying any contraband goods or Indian/Foreign currency, he replied that he was in possession of Indian currency but had no foreign currency. However, on examination of his checked in baggage a bundle of foreign currency notes was found inside the front and back pockets of a black coloured jeans trouser. On detailed examination of the said recovered bundle of foreign currency notes, it was found that it comprised of 30 number of US dollars of 100 denominations and 107 number of Euro of 50 denomination, totally amounting to Rs. 5,91,158/-. The original authority ordered absolute confiscation of the offending goods and also imposed penalty of Rs. 1,80,000/-, under Section 114 of the Act, *ibid*, on the


Respondent. Aggrieved, the Respondent herein filed appeal, which has been partially allowed by the Commissioner (Appeals), as above.

3. The Revision Application has been filed by the Applicant department, mainly, on the grounds that the Respondent herein had attempted to smuggle foreign currency in a concealed manner which cannot be allowed to be redeemed; that the Respondent did not possess any documents to show licit possession of foreign currency; and that the appellate authority reduced the penalty imposed under Section 114 without any supporting findings.

4. Personal hearings in the matter were fixed on 22.05.2023, 07.08.2023 and 29.08.2023. No one appeared in the personal hearing held on 22.05.2023. In the personal hearing held on 07.08.2023, no one appeared from the Applicant department's side. The Respondent appeared and reiterated his stand that this case has made him suffer unduly. In the personal hearing held on 29.08.2023, the Respondent once again prayed for ending the hardship caused to him and again no one appeared on behalf of Applicant department nor was any request received for adjournment etc. Hence, it is presumed that the Applicant department has nothing to add in the matter and as such, the matter is being taken up for disposal.

5. The Government has carefully examined the matter. The Government observes that, in terms of sub-section (2) of the Section 129DD, a revision application shall be made within three months from the date of the communication of the order against which the application is being made. In the present case, the OIA impugned herein was received by the Applicant department on 15.06.2018. The instant revision application has been filed on 08.10.2018. Thus, there is a delay of 23 days in filing the revision application. 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, proviso to said sub-section (2) provides discretion to the Government to 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 present case, the Applicant department has not submitted the application for condonation of delay nor shown any cause for delay despite letters dated 15.05.2023, 23.05.2023, 26.07.2023 & 07.08.2023 sent to them on the matter. Therefore, the Applicant department has failed to establish that they were prevented by sufficient cause from presenting the application within the normal period of 3 months as required under Section 129DD of the Customs Act, 1962. Hence, the application is rejected without traversing the merits of the case.


19/9/23

(Shubhagata Kumar),
Additional Secretary to the Government of India

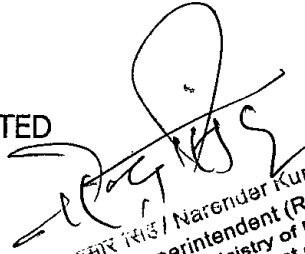
The Commissioner of Customs
New Custom House, Panambur
Mangalore-575010

Order No. 217/23-Cus dated 19.9.2023

Copy to:

1. Sh. Abdul Shammi Samsuddin Goltay, S/o Sh. Mohammed Ali Goltay, 5-88, Vankayala Panja St, Noordinpet, Machilipatnam, Krishna District, Andhra Pradesh.
2. The Commissioner of Customs (Appeals), BMTC Building, Above BMTC Bus Stand, Ols Airport Road, Domlur, Bengaluru-560071.
3. PPS to AS(RA)
4. Guard file.
5. Spare Copy.
6. Notice board.

ATTESTED


नरेंद्र कुमार सिंग / Narender Kumar Singh
अधीक्षक / Superintendent (R.A. Unit)
वित्त मंत्रालय / Ministry of Finance
राजस्व विभाग / Department of Revenue
Room No. 606, 6th Floor, B-Wing
14, Hudco Vishala Building, Bhikaji Cama Place
New Delhi-110066