

SPEED POST



F. No. 373/182/B/SZ/2020-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. 21/10/24:

Order No. 220/24-Cus dated 21-10-2024 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 Airport. Cus. I. No. 165/2020 dated 27.07.2020, passed by the Commissioner of Customs (Appeals-I), Chennai.

Applicant : Shri Abdul Azees, Tamil Nadu

Respondent : The Principal Commissioner of Customs, Chennai-I

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ORDER

Revision Application No. 373/182/B/SZ/2020-RA dated 13.08.2020 has been filed by Shri Abdul Azees, Tamil Nadu (hereinafter referred to as the Applicant), against the Order-in-Appeal Airport. Cus. I. No. 165/2020 dated 27.07.2020, passed by the Commissioner of Customs (Appeals-I), Chennai. The Commissioner (Appeals) has rejected the appeal filed by the Applicant and upheld the Order-in-Original of the Joint Commissioner of Customs (Adjudication-AIR), Chennai Airport and Air Cargo Complex, New Custom House, Meenambakkam, Chennai, bearing No. 02/2020-21-Commissionerate-1 dated 28.04.2020.

2. Brief facts of the case are that, on 20.09.2019, the Applicant, an Indian passport holder, while arriving into India at Anna International Terminal of Chennai Airport, Meenambakkam, Chennai from Kuala Lumpur, was intercepted by Customs officers while he was about to exit the arrival hall of the Airport after passing through green channel, on reasonable suspicion that he might be carrying gold/dutiable goods either in his baggage or on his person. Upon search of his person and examination of his hand baggage, nothing incriminating was found. However, the search of another bag viz., one black colour stroller bag with marking "POLO" resulted in the recovery of seven assorted rectangular gold plates and thirty-nine assorted small size gold cut bits of 24 carat purity which were concealed inside 5 nos. of three-pin sockets. The total value of the seized gold, weighing 290 grams was Rs. 11,23,170/-. As the Applicant attempted to smuggle the gold by concealing and not declaring to Customs at Chennai Airport and as he was not an eligible passenger to bring gold into India and was not in possession of any valid document/permit/license for the legal import of impugned gold into India, the impugned gold weighing 290 grams were seized under a Mahazar under Section 110 of the Customs Act, 1962 read with Section 3(3) of the Foreign Trade (Development & Regulation) Act, 1992.

3. In his voluntary statement dated 20.09.2019 recorded under Section of 108 of the Customs Act, 1962 immediately after seizure of the impugned gold, the Applicant stated inter-alia that he was working in a hotel in Kuala Lumpur and earned Rs. 20,000/- per month; that the seized gold did not belong to him; that they were handed over to him by

an unknown person outside the Kuala Lumpur Airport who requested him to carry the same and to hand it over to a person outside Chennai Airport, who would identify him. He also admitted that he was offered Rs. 5,000/- for carrying out the job. He further admitted that he was well aware that smuggling gold by way of concealing and not declaring to Customs was an offence. The Applicant vide his letter dated 20.09.2019 requested for adjudication of the case without issue of show cause notice.

4. After due process of law, the adjudicating authority vide aforesaid Order-in-Original No. 02/2020-21-Commissionerate-1 dated 28.04.2020 adjudicated the case by absolutely confiscating the 07 nos. of assorted gold plates and 39 nos. of gold cut bits of 24 carat purity totally weighing 290 grams and valued at Rs. 11,23,170/-, recovered from the Applicant, under Section 111(d), 111(i) and 111(l) of the Customs Act, 1962 read with Section 3(3) of the Foreign Trade (Development & Regulation) Act, 1992 along with material objects (NCV) used to conceal the impugned gold under Section 119 of the Customs Act, 1962. Besides, a penalty of Rs. 1,20,000/- was also imposed on the Applicant under Section 112(a) of the Customs Act, 1962. Aggrieved, the Applicant filed an appeal before the Commissioner of Customs (Appeals-I), Chennai, which has been rejected. Aggrieved by the O-I-A, the Applicant filed this Revision Application.

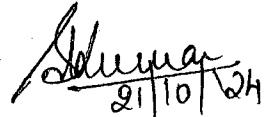
5. The above revision application have been filed mainly on the grounds that order of adjudicating authority is against law, weight of evidence and circumstances and probabilities of the case; that the gold is not a prohibited item and according to the liberalized policy the gold can be released on payment of redemption fine and baggage duty; that no declaration card was provided; that the adjudicating authority ought to have allowed redemption of the seized gold. The prayer is to set aside the impugned Order-in-Appeal, the impugned gold items be permitted for re-export/released and that the penalty be set aside/ reduced.

6. Personal hearing in the matter was fixed on 14.10.2024. Smt. P. Kamalamalar, Advocate appeared on behalf of the Applicant and she was informed that the mandatory fees required to accompany the revision application has been short-paid and needs to be rectified so that the RA can be taken up for disposal. As per her request, two days time was granted to deposit the same. But, no response has been received in this regard till

date. No one appeared on behalf of the Respondent department and also no request for adjournment has been received in the matter. Therefore, it is presumed that the department has nothing to add in the matter.

7. The Government has examined the matter. As per sub-section 3(b) of Section 129DD, *ibid*, a revision application shall be accompanied by a fee of Rs. 1,000/- 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 the said sub-section (3) makes it apparent that the requirement of fees is mandatory. It is observed that the Applicant has incorrectly paid the RA fee of only Rs. 200/- as per sub-section 3(a) of Section 129DD, even though penalty involved in the subject case is in excess of Rs. 1,00,000/-. The Applicant has, till date, failed to pay the balance amount of Rs. 800/- despite being advised to do so vide letter dated 03.10.2024 and during the personal hearing on 14.10.2024. Therefore, the Government holds that the subject revision application is not maintainable as it does not fulfil the requirements of Section 129DD(3).

8. The revision application is, accordingly, rejected as non-maintainable, without traversing the merits of the case.



(Shubhagata Kumar)

Additional Secretary to the Government of India

Shri Abdul Azees,
S/o Shri Khader Mohideen,
O.No. 1-98A, N.No.2/6,
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Order No. 220 /24-Cus dated 21-10-2024

Copy to:

1. The Commissioner of Customs (Appeals-I), Chennai Airport & Air Cargo, 3rd floor, New Custom House, GST Road, Meenambakkam, Chennai – 600016
2. The Principal Commissioner of Customs, Commissionerate-I, Chennai-I (Airport), New Custom House, Meenambakkam, Chennai-600027

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

ATTESTED


21/10/24

सरबजीत सिंह / SARABJEET SINGH
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