

**SPEED POST**



F. No. 373/418/B/SZ/2022-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.. 22/10/24

Order No. 222/24-Cus dated 22-10-2024 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 No. 1537/2022 dated 18.05.2022, passed by the Commissioner of Customs (Appeals), Bengaluru.

Applicant : Shri Abdulla Yasir, Kasargod

Respondent : Pr. Commissioner of Customs, Airport & Air Cargo Complex, Bengaluru.

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**ORDER**

A Revision Application No. 373/418/B/SZ/2022-RA dated 14.11.2022 has been filed by Shri Abdulla Yasir, Kasargod (hereinafter referred to as the Applicant) against the Order-in-Appeal No. 1537/2022 dated 18.05.2022, passed by the Commissioner of Customs (Appeals), Bengaluru. The Commissioner (Appeals) has rejected the appeal filed by the Applicant herein against the Order-in-Original, bearing no. 14/2018 DC AP dated 07.08.2018, passed by the Assistant Commissioner of Customs, Mangaluru International Airport, Mangaluru, as time barred.

2. Brief facts of the case are that the case relates to seizure of gold chain Customs officers posted at Mangaluru International Airport from the Applicant, who arrived from Dubai on 13.01.2018. During the search of the Applicant's person, 02 black velvet pouches were found secreted inside his socks, each pouch having one yellow coloured metal chain. The jewelry valuer of M/s Mangalore Testing Centre, ascertained the genuineness, purity and value of said yellow coloured metallic items. Upon assaying, it was found that the chains were of 24 carat purity gold totally weighing 150.190 grams and valued at Rs. 4,59,581/-.

3. The Adjudicating Authority vide the aforesaid O-I-O dated 07.08.2018, confiscated the impugned gold chains weighing 150.190 grams and valued at Rs.4,59,581/- under Section 111(d), (i), (l) and (m) of the Customs Act, 1962 and imposed penalty of Rs. 90,000/- under Section 112(a) and Rs. 45,000/- under Section 114AA of the Act, *ibid.* Aggrieved, the Applicant filed an appeal before the Commissioner of Customs (Appeals), Bengaluru who has dismissed the appeal as time barred as per the provisions of Section 128 of the Customs Act, 1962. The Appellate Authority noticed that there was delay of approx. four years from the date of O-I-O in filing the appeal by Applicant. Aggrieved by the O-I-A, the Applicant filed this Revision Application.

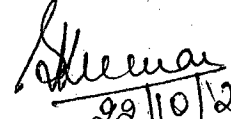
4. The instant revision application has been filed mainly on the grounds that the impugned O-I-O passed by the Adjudicating Authority is not speaking and O-I-A is not justified; that the Commissioner (Appeals) has, without giving any notice of personal hearing to the appellant or his counsel and without giving any opportunity to be heard in person has passed an ex-parte order dismissing the appeal as barred by limitation of time.

The prayer of the Applicant is a request to remand back the case for restoring appeal for deciding the same on merit or pass order allowing the Applicant to redeem the confiscated two gold chains on payment of redemption and applicable duty as per Section 125(1) of the Customs Act, 1962 or allow re-export of the same.

5. Personal hearings in the matter were fixed on 13.09.2024 and 25.09.2024. No one appeared on behalf the Applicant and also no request for adjournment has been received so far in the matter. Shri Aravind Raja, Assistant Commissioner of Customs, Mangaluru appeared on 13.09.2024 on behalf of the Respondent and submitted that the instant revision application is hit by limitation and merits rejection on this ground alone. He further stated that this case falls after the pandemic period and that there is no ground for condonation of delay on account of COVID. On the merits of the case, he stated that the Applicant could have declared the goods and paid the applicable Customs duty on the gold, but he chose not to do so and brought them concealed in his socks, hence the revision application should be rejected.

6. The Government observes that the impugned Order-in-Appeal dated 18.05.2022 was received by the Applicant on 23.05.2022 as admitted by him. The revision application has been filed on 14.11.2022. Thus, there is delay of around 85 days in filing revision application. 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. As per request application for condonation of delay filed by the Applicant, the reason cited for the delay is that the Applicant was not keeping well for a long time and was not able to approach his counsel immediately for necessary follow up of the matter. However, no supporting document or any evidence has been provided by the Applicant to substantiate his claim and he has also not availed the opportunity of being heard in person on any of the dates fixed for the same. Therefore, the Government holds that sufficient cause for the delay has not been established.

7. In view of the above, the revision application is rejected as barred by limitation without traversing the merits of the case.

  
22/10/24

(Shubhagata Kumar)

Additional Secretary to the Government of India

Shri Abdulla Yasir,  
S/o Shri Mohammed Ashraf Cherangai,  
H.No. MP-X/489, Nal Hava Garden,  
Eriyal Cherangai, Kundlu PO,  
Kasargod, Kerala -671 125

Order No. 222 /24-Cus dated 22-10-2024

Copy to:

1. The Commissioner of Customs (Appeals), BMTC Building, Above BMTC Bus Stand, Old Airport Road, Domlur, Bengaluru-560071.
2. The Pr. Commissioner of Customs, Airport & Air Cargo Complex, Air India SATS, Air Freight Terminal, Kempegowda, Bengaluru-560300.
3. Sh. S. Palanikumar, Kameshwaran & P. Kamala Malar, Advocates, No. 10, Sunkurama Street, 2<sup>nd</sup> Floor, Chennai-600001.
4. PA to AS(RA)
5. Guard File
6. Spare Copy
7. Notice Board

  
ATTESTED

(शैलेन्द्र कुमार मीना)  
(Shailendra Kumar Meena)  
अनुभाग अधिकारी / Section Officer  
वित्त मंत्रालय (राजस्व विभाग)  
Ministry of Finance (Deptt. of Rev.)  
भारत सरकार / Government of India