

SPEED POST



F. No. 375/67/B/2023-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. 24/10/24..

Order No. 225 /24-Cus dated 24-10-2024 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 Application, filed under Section 129 DD of the Customs Act 1962 against the Order-in-Appeal No. CC(A)/Customs/D-I/Air/6123/2022-23 dated 29.12.2022, passed by the Commissioner of Customs (Appeals), New Delhi.

Applicant : Sh. Moinuddin Khan, New Delhi

Respondent : The Commissioner of Customs (Airport), New Delhi

ORDER

A Revision Application, bearing No. 375/67/B/2023-RA dated 11.08.2023, has been filed by Sh. Moinuddin Khan, New Delhi (hereinafter referred to as the Applicant), against the Order-in-Appeal No. CC(A)/Customs/D-I/Air/6123/2022-23 dated 29.12.2022, passed by the Commissioner of Customs (Appeals), New Delhi, vide which the Commissioner (Appeals) has modified the Order-in-Original No. 546/Adjn./2018 dated 31.12.2018, passed by the Additional Commissioner of Customs (Airport), New Delhi by setting aside the redemption fine imposed upon the confiscated goods. Vide the aforementioned Order-in-Original, six ten tola gold bars, one white coated gold bracelet, six white coated gold hooks, twenty-five white coated round shape gold beads (mankas) and 35 white coated star shaped gold beads mankas, totally weighing 1088.84 grams and collectively valued at Rs. 29,54,240/- recovered from the Applicant, had been confiscated under Section 111(d), 111(i), 111(j), 111(l) & 111(m) of the Customs Act, 1962, however, they were allowed to be redeemed on payment of redemption fine of Rs. 2,50,000/- under Section 125 of Customs Act, 1962. Besides, penalty of Rs. 2,50,000/- was also imposed on the Applicant, under Section 112 and 114AA of the Act, *ibid*.

2. Brief facts of the case are that the Customs Officers intercepted the Applicant upon his arrival at IGI Airport, from Mumbai, on 08.03.2016, at the exit gate of the Customs Arrival Hall after he had crossed the Green Channel. The applicant was questioned whether he was carrying any gold bars or gold items to which he replied in the negative. On scanning of his stroller hand baggage, some dark images were noticed, which indicated the presence of some high density material which appeared to be gold. He was again asked if he wished to declare any gold bars or gold items to Customs, to which he again replied in the negative. Thereafter he was made to pass through the Door Frame Metal Detector (DFMD) which sounded a beep alarm. Upon the search of his person, six yellow metal bar of ten tolas each, wrapped with carbon paper and pasted with white tape under his feet and concealed in his both shoes, along with one white coated bracelet appearing to be gold, worn on his hand, were recovered. Upon the examination of his stroller hand bag, six white coated hooks appearing to be gold, concealed in three small bags, twenty-five white coated round shape beads (mankas) and thirty-five white coated

star shaped beads (mankas) concealed in two bead strings (Malas) all appearing to be of gold and collectively weighing 1088.84 grams were recovered. The Jewellery Appraiser appraised the aforementioned items and informed the items to be of gold, having a collective value of Rs. 29,54,240/- as mentioned in para-1 above.

3. In his voluntary statement, recorded under Section 108 of the Customs Act, 1962, the applicant stated inter-alia that the 06 gold bars of foreign origin and other gold items do not belong to him; that his friend Shahbaz, a resident of Bhindi Bazar, Mumbai, instructed him that after his checking-in and taking his boarding pass for Delhi, one international passenger arriving from Dubai would meet him in the departure hall and would hand over the gold bars and gold items; that after checking-in and security check, he reached the departure hall where one international passenger identified him and handed over the three small bags and 6 pieces of gold bars of foreign origin; that thereafter he went to the toilet and concealed the gold bars in his shoes. The rest of the items were already concealed in three small bags in the stroller. Shahbaz also instructed him that someone would come outside the T3 terminal and collect the gold bars and three small bags containing gold items from him; that after delivery of gold bars and gold items he would get Rs. 50,000/- from the receiver of the gold. The matter was adjudicated by the original authority, vide aforesaid Order-in-Original dated 31.12.2018. Aggrieved, the Applicant filed an appeal before the Commissioner (Appeals), which was modified as above.

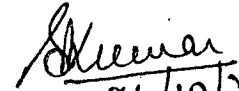
4. The revision application has been filed mainly on the grounds that the applicant was not an international passenger and brought the gold locally; that Customs provisions are not applicable in the present case and the said gold cannot be said to have been imported by the applicant; and that the imposition of penalty and duty were not applicable as per Customs Act as the said goods were locally purchased by the applicant.

5. Personal hearings in the matter were fixed on 18.09.2024 & 27.09.2024 which were postponed on the request of Ms. Prabjyoti K Chadha, advocate for the applicant vide her letters received on emails dated 17.09.2024 & 20.09.2024. In the hearing held on 07.10.2024, it was stated that there has been a delay of 114 days in filing this application,

to which Ms. Prabhjyot stated that the delay was at their end due to renovation work going on in their premises. It was pointed out that the RA can only condone a delay of upto 3 months (upon sufficient cause being shown) and not beyond that. She accepted the fact that the case is hit by limitation. No one appeared for the side of Respondent. As such, it is presumed that the Respondent has nothing to add in the matter. Hence, the matter is being taken up for disposal.

6. On examination of the relevant case records, it is observed that the impugned Order-in-Appeal dated 29.12.2022 was received by the Applicant on 20.01.2023 as admitted by him. The revision application has been filed on 11.08.2023. Thus, there is a delay of 3 months and 21 days in filing the revision application beyond the normal period of limitation. In the instant case, the delay being more than 3 months beyond the normal period of appeal, this delay cannot be condoned in terms of the proviso to sub-section (2) of the Section 129DD of the Customs Act, 1962. The revision application is thus rejected on grounds of limitation without traversing the merits of the case.

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


24/10/24

(Shubhagata Kumar)

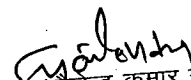
Additional Secretary to the Government of India

Sh. Moinuddin Khan
S/o Sh. Zamiruddin
R/o H.No. 2280, Gali Qasimjan
Ballimaran, Delhi-110006.

Order No. 225 /24-Cus dated 24-10-2024

Copy to:

1. The Commissioner of Customs (Appeals), New Customs House, Near IGI Airport, New Delhi-110037.
2. The Commissioner of Customs, T-3, IGI Airport, New Delhi-110037.
3. Sh. D.S Chadha, G-16, IIInd Floor, Lajpat Nagar-1, New Delhi-110024.
4. PPS to AS (RA).
5. Guard file.
6. Spare Copy
7. Notice Board


ATTESTED (Shalendra 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