

**'SPEED POST'**



F. No. 373/49/B/2019-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... 6/10/2023

Order No. 228/23-Cus dated 06/10/2023 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 Applications under Section 129 DD of the Customs Act, 1962, against the Order-in-Appeal No. TVM-EXCUS-000-APP-09-2019 dated 17.01.2019, passed by the Commissioner of Central Goods & Service Tax (Appeals), Kochi.

Applicant : Sh. Yousaf Badurudeen, Ramanathapuram, Tamilnadu.

Respondent : The Commissioner of Customs (Preventive), Cochin

**ORDER**

A Revision Application No. 373/49/B/2019-RA dated 11.03.2019 has been filed by Sh. Yousaf Badurudeen, Ramanathapuram, Tamilnadu (hereinafter referred to as the Applicant) against the Order-in-Appeal No. TVM-EXCUS-000-APP-09-2019 dated 17.01.2019, passed by the Commissioner of Commissioner of Central Goods & Service Tax (Appeals), Kochi. The Commissioner (Appeals) has upheld the order of the Additional Commissioner of Central Excise, Customs & Service Tax, Thiruvananthapuram, bearing no. 04/2013 CUS (ADC) dated 27.12.2013, whereby 09 gold biscuits collectively weighing 900 grams valued at Rs. 25,51,500/-, which were concealed by the Applicant in his rectum, were absolutely confiscated under Sections 111(d), 111(l) and 111(o) of the Customs Act, 1962 alongwith the material objects viz. cut open carbon paper, pink coloured polythene sheet and black insulation tape used for concealing the above gold items, under Section 119 of the Customs Act, 1962. Besides, penalty of Rs. 10,00,000/- was also imposed by the original authority on the Applicant herein, under Section 112 of the Customs Act, 1962, which has been maintained in appeal.

2. Brief facts of the case are that the Applicant arrived, on 04.11.2011, at Thiruvananthapuram International Airport, from Srilanka. The Applicant was intercepted near the exit gate after he had crossed the Customs Green Channel. After search of his person and of his baggage 09 gold biscuits, which were concealed by the Applicant in three small pellets (each containing three gold biscuits) in his rectum, were recovered. The Applicant accepted that the said gold biscuits had been concealed by him. The value of seized gold biscuits of 24 carat having foreign markings, collectively weighing 900 grams, were appraised at Rs. 25,51,500/- by an approved assayer, recovered from the Applicant, were seized under a Mahazar dated 04.11.2011. The Applicant in his statement dated 04.11.2011, recorded under Section 108 of the Customs Act, 1962, admitted the recovery of 09 gold biscuits alongwith seized material used for concealing the said gold biscuits and agreed with

the contents of the Mahazar dated 04.11.2011. He further admitted that he had followed directions of one Mr. Ibrahim whom he had met in Colombo to smuggle gold for remuneration of Rs. 10,000/-; that he had not declared the gold to evade duty; that he was not in possession of any valid documents for claiming ownership; that he was fully aware that the import of gold was liable to Customs duty; and that the smuggling of the same was a punishable offence.

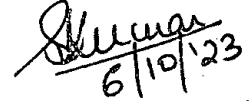
3. The revision application has been filed, mainly, on the grounds that the order of the lower adjudicating authority is against law, weight of evidence, circumstances and probabilities of the case; that gold is not a prohibited item; that the appellant was all along in control of the Customs officers at the red channel; that the gold belonged to the Applicant and seeks that the impugned Order-in-Appeal be set aside, the gold item be permitted for re-export/released and that the penalty be reduced. Case laws in support of the case have been cited and a request made to set aside the impugned order.

4. None appeared for the Personal hearing on 17.08.2023 from either the Applicant or the Respondent's side. In the personal hearing held on 06.09.2023, Smt. P. Kamala Malar, Advocate, appeared for the Applicant and reiterated her written submissions and prayed for reduction in penalty. No one appeared from the department's side nor has any request for adjournment been received, hence it is presumed that the department has nothing to add in the matter.

5. The Government has carefully examined the matter. As per sub-section (3) 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 fee is mandatory. It is observed that the Applicant has paid a RA fee of only Rs. 200/- even though penalty involved in the subject case is in

excess of Rs. 1,00,000/-. The Applicant has failed to pay the balance amount of Rs. 800/- despite being repeatedly informed, vide e-mail dated 16.08.2023 and letter dated 17.08.2023. Therefore, the Government holds that the subject revision application is not maintainable as it is not accompanied by the requisite fee, as provided under Section 129DD (3).

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

  
6/10/23

(Shubhagata Kumar)

Additional Secretary to the Government of India

1. Sh. Yousaf Badurudeen  
2/106, Middle Street, SP Pattinam,  
Ramanathapuram District,  
TAMIL NADU-623 703
2. Sh. Yousaf Badurudeen,  
2/85, Muslim Street, Jegathapattinam,  
Manamelkudi Taluk, Pudukottai,  
TAMIL NADU- 614 619
3. Sh. Yousaf Badurudeen  
C/o S. Palanikumar(Advocate)  
No. 10, Sunkurama Street  
2<sup>nd</sup> Floor, Chennai-600001

Order No. 228/23-Cus dated 6.10.2023

Copy to:

1. The Commissioner of Central Tax, Central Excise & Customs (Appeals), Kochi, 4<sup>th</sup> Floor, C.R. Building, I.S. Press Road, Kochi-682018
2. The Commissioner of Customs (Preventive), Cochin, 5<sup>th</sup> Floor, Catholic Centre, Broadway, Cochin -682031
3. Sh. S. Palanikumar, Kameshwaran & P. Kamalamalar, Advocates, No. 10, Sunkurama Street, 2<sup>nd</sup> Floor, Chennai-600001.
4. PPS to AS (RA).
5. Guard file.
6. Spare Copy
7. Notice Board

  
6/10/2023  
ATTESTED

प्रवीण नेगी / Praveen Negi  
अधीक्षक / Superintendent (R.A. Unit)  
वित्त मंत्रालय / Ministry of Finance  
राजस्व विभाग / Department of Revenue  
Room No. 613, B-Wing  
14, Hudco Vishala Bldg., Rajaji Cama Place  
New Delhi-110066