

**SPEED POST**



F. No. 375/74/B/NZ/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. 28-10-2024

Order No. 229/24-Cus dated 28-10-2024 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. JNK-EXCUS-APP-28/2022-23 dated 28.07.2022, passed by the Commissioner (Appeals), CGST, Jammu.

Applicant : Shri Mohamed Jiffry Sulaima Lebbe, Srilanka

Respondent : The Commissioner of Customs (Preventive), Amritsar

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**ORDER**

A Revision Application No. 375/74/B/NZ/2022-RA dated 05.12.2022 has been filed by Shri Mohamed Jiffry Sulaima Lebbe, Srilanka (hereinafter referred to as the Applicant) against the Order-in-Appeal No. JNK-EXCUS-APP-28/2022-23 dated 28.07.2022, passed by the Commissioner (Appeals), CGST, Jammu. The Commissioner (Appeals) has rejected the appeal filed by the Applicant against the Order-in-Original No. F.No. VIII-Cus/SGRDJI/AIU/04/Seizure/Mohamed Jiffry/2018/1085a dated 03.10.2018, passed by the Joint Commissioner of Customs (Preventive), Amritsar.

2. Brief facts of the case are that the Applicant, a Sri Lankan Passport holder, who arrived in India at Sri Guru Ram Das Jee International (SGRDJI) Airport, Amritsar from Malaysia on 27.09.2018, was intercepted on the basis of specific intelligence while he was trying to cross the green channel of SGRDJI Airport. The Applicant was asked a specific question as to whether he was carrying any gold/contraband goods either in his baggage or on his person, to which he replied in the negative. The Applicant had not declared any dutiable goods to Customs. On being questioned, the Applicant informed that he came to India for a medical checkup and to purchase some stationery items for his office in Malaysia. On the basis of system based intelligence and frequent visits as per his passport, the Applicant's movement was found to be suspicious, therefore he was intercepted after he had tried to cross the green channel.

3. During the search of Applicant's baggage through X-ray, it was noticed that he was carrying one gold chain and one gold ring. Thereafter, a thorough search resulted in the recovery of silver colored coated crude gold in the shape of a Kada, worn on his left hand concealed under the shirt. Further, it was confirmed by a goldsmith that the net weight of gold chain was 201.04 gm valued at Rs. 6,27,224/-, net weight of one gold ring was 25.24 gm valued at Rs. 78,748/- and net weight of one gold kada was 160.37 gm valued at Rs. 5,00,354/-. Thus, the total net weight of these gold items was 386.65 gm valued at Rs. 12,06,326/- at the locally prevalent gold rate and purity was found to be of 24 carats.

4. Upon being questioned, the Applicant could not produce any document to evidence legal import of the recovered gold into India. Thus, it appeared that the Applicant attempted to smuggle the impugned gold into India by concealing it and without making any declaration under Section 77 of the Customs Act, 1962. The Customs officers seized the recovered gold under Section 110 of the Customs Act, 1962 on the reasonable belief that the same was attempted to be smuggled in contravention of the provisions of the Customs Act, 1962. The black hand bag in which the gold was concealed, was also seized. A Panchnama dated 27.09.2018 of the above proceedings was drawn on the spot.

5. Statement of the Applicant was recorded under Section 108 of the Customs Act, 1962 wherein he stated that he had purchased these gold items from Malaysia in January, 2018 and had the invoice of this purchase but was not carrying the same. He had travelled four times to India that year and brought the same item every time. He further stated that he was working as an Accountant in Malaysia since 2017 and residing there with his wife and three children.

6. The Adjudicating Authority vide the above said O-I-O dated 03.10.2018, absolutely confiscated the impugned gold under Section 111(d), 111(l) and 111(m) of the Customs Act, 1962 along with the seized black bag under Section 119 of the Customs Act, 1962 which was used to conceal the said gold ornaments. Besides, a penalty of Rs. 30,000/- under Section 112(a) of the Customs Act, 1962 was also imposed on the Applicant. Aggrieved, the Applicant filed an appeal before Commissioner Appeals who has upheld the O-I-O and dismissed the appeal of the Applicant vide impugned O-I-A No. JNK-EXCUS-APP-28/2022-23 dated 28.07.2022. Aggrieved by the O-I-A, the Applicant filed this Revision Application.

7. The instant revision application has been filed mainly on the grounds that the order of the lower authority is against law, weight of evidence, and probabilities of the case; that the adjudicating authority ought to have passed an order to re-export under Section 80 of the Customs Act, 1962; that the Customs Act, 1962 or the Baggage Rules, 1998 do not stipulate that a foreign tourist entering India cannot wear gold ornaments on his/her person; that ownership of the gold is not disputed and there is no ingenious concealment and gold jewellery are not in commercial

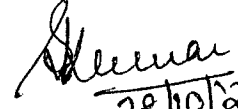
quantity and he purchased these in Srilanka out of his own earnings for his own use; that no declaration card was provided; that there is no legal requirement to declare the gold jewellery when the passenger is wearing the same and the baggage rules will not applicable for personal belongings; that the Applicant was under the control of the officers of Customs and he was at the red channel. The prayer is to permit re-export of the impugned gold jewellery and set aside the impugned order and to set aside/reduce the penalty under Section 112(a) & (b) of the Customs Act, 1962.

8. Personal hearing in the matter was fixed on 23.09.2024. Smt. Kamalamalar Palanikumar, Advocate appeared on behalf of the Applicant and reiterated the written submissions in RA. It was pointed out that the RA has been filed with a delay of 37 days and that a generic reason of health and financial constraints has been cited without any evidence or substantiation. To this, the counsel submitted that she would obtain the required documentary evidence to establish 'sufficient cause' and substantiate the same as available. However, no submission has been received in this regard so far. No one appeared on behalf of the Respondent department and also no request for adjournment has been received from them. Therefore, it is presumed that Respondent has nothing to add in the matter.

9. The Government observes that the impugned Order-in-Appeal dated 28.07.2022 was received by the Applicant on 01.08.2022 as admitted by him. The revision application has been filed by the Applicant on 05.12.2022 and there is a delay of around 37 days. The reason cited for the delay is stated as the Applicant's health issue and financial problem due to which he was not able to file the appeal in time. However, the said claim of the Applicant has not been substantiated with any supporting documents or evidence. 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, in terms of the proviso to sub-section (2) of the Section 129DD of the Customs Act, 1962 provides the discretion to the Government to 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 prescribed time limit. In the conspectus of the facts and circumstances, the Government is constrained to hold

that the applicant has been unable to show "sufficient cause" as required under Section 129DD of the Customs Act, 1962. The revision application is thus rejected on grounds of limitation without traversing the merits of the case.

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

  
28/10/24

(Shubhagata Kumar)

Additional Secretary to the Government of India

Shri Mohamed Jiffry Sulaima Lebbe,  
Resident of No. 1, Kappal Alim Lane,  
Kattankudy-03, Sri Lanka  
(Holder of Sri Lankan Passport No. N7229214)

Order No. 229 /24-Cus dated 28-10-2024

Copy to:

1. The Commissioner (Appeals), Central Goods & Services Tax Appeals Commissionerate, Jammu, OB-32, Rail Head Complex, Jammu.
2. The Commissioner of Customs (Preventive), Customs (Preventive) Commissionerate, The Mall, Amritsar -143 001.
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

(शैलेन्द्र कुमार मीना)  
(Shailendra 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