

SPEED POST



F. No. 373/152-A/B/2015-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..5.02.2024

Order No. 29/24-Cus dated 5.02.2024 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. 350/2014 dated 14.10.2014, passed by the Commissioner of Customs (Appeals), Bengaluru.

Applicant : Sh. Maru Rajender, Bengaluru

Respondent : Pr. Commissioner of Customs, Bengaluru

ORDER

A Revision Application, bearing No. 373/152-A/B/2015-RA dated 30.04.2015, has been filed by Sh. Maru Rajender, Bengaluru (hereinafter referred to as the Applicant), against the Order-in-Appeal No. 350/2014 dated 14.10.2014, passed by the Commissioner of Customs (Appeals), Bengaluru. The matter was adjudicated vide Order-in-Original No. 35/2013 dated 18.04.2013 by Deputy Commissioner of Customs (Airport), Bengaluru vide which 4.5 Kgs of Silver Coins and 86 grams of gold ornaments recovered from the Applicant were imposed upon Customs Duty @ 36.05% on their redetermined value under Rule 9 of the Customs Valuation (Determination of Value of Imported Goods), Rules, 2007 and penalty of Rs. 50,000/- was imposed upon the Applicant under Section 112(a) of the Act *ibid*. Thereafter, the Commissioner (Appeals) modified the aforesaid Order-in-Original by setting aside the penalty of Rs. 50,000/- imposed upon the Applicant under Section 112(a) of the Customs Act, 1962.

2. Brief facts of the case are that the Applicant arrived at Bengaluru International Airport on 10.04.2011 and brought with him 4.5 Kgs of Silver Coins and 86 grams of gold ornaments. The Applicant paid the Customs duty of Rs. 6953/- on the imported Silver Coins and Rs. 6,644/- on imported gold ornaments and the duty was calculated in terms of the Notification No. 172/94 dated 30.09.1994 as amended and Notification No. 31/2003 dated 01.03.2003 as amended, respectively. In terms of above notifications, a person is eligible to import Silver upto 100 Kgs and gold upto 10 Kgs provided he/she is coming to India after a period of not less than six months of stay abroad. On verification of his documents, it was noticed that he left India on 09.03.2011 and returned to India on 10.04.2011 and also during the period prior to 10.04.2011 he did not stay abroad for six months. As such, he was not eligible for the benefit of aforesaid notifications and hence, the impugned goods were subjected to merit rate of duty. The value of the impugned goods was determined under Rule 9 of the Customs Valuation (Determination of value of Imported Goods) Rule, 2007 read with Section 14 of the Customs Act, 1962 and the total value of the impugned goods was arrived at Rs. 4,47,582/- as the Applicant did not know/furnish the value of the impugned goods and also did not have/produce any relevant purchase invoices at the time of clearance of the said goods.

The matter was adjudicated by the original authority, vide aforesaid Order-in-Original dated 18.04.2013. Aggrieved, the Applicant filed an appeal before the Commissioner (Appeals), which was modified as mentioned above.

3. The revision application has been filed mainly on the grounds that the Show Cause Notice issued to the Applicant placed no reliance on any documents in issuing Show Cause Notice; that there is no test result obtained from an authorized laboratory that the silver coins are pure silver and gold ornaments are pure gold; that valuation method adopted under Rule 9 should have been discarded without sequentially resorting to Rule 5 to 8 of the Valuation Rules.

4. Personal hearing in the matter was fixed on 13.09.2022 which was adjourned on the request of Applicant vide his email dated 08.11.2022. PH was again fixed for 04.10.2023 which was again adjourned on the request of Applicant. In the hearing held on 06.11.2023, the Applicant submitted that he is a historian and author by profession and collects coins as a hobby that he has brought coins on previous occasions also and always declared the same to Customs and paid duty upon such articles; that he is a law-abiding citizen and that in the subject case too, he voluntarily declared the copper and silver coins and paid duty thereupon as adjudged by Customs officers at the airport. He submitted that he was taken aback when for the same goods for which he had already paid customs duty, he was issued an SCN on the last day of the time limitation with enhanced value and penalty. He submitted that while Commissioner (Appeals) set aside the penalty he ought to also have struck down the SCN as the same authority cannot take customs duty twice for the same goods without recourse to legal remedy. He stated that the OIO and OIA are bad in law; that no test for purity was done and that RA should be allowed. No one appeared from the side of Respondent. As such, it is presumed that the Respondent has nothing to add in the matter.

5. On examination of the relevant case records, it is observed that the impugned Order-in-Appeal dated 14.10.2014 was received by the Applicant on 06.11.2014 as admitted by him. The revision application has been filed on 30.04.2015. Thus, there is an inordinate delay of 83 days in filing the revision application. The reason cited for the delay

has been attributed to illness of the Applicant from Typhoid which has not been substantiated with any medical documents. 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) the Government may allow an application to be presented within a further period of 3 months if the Government is satisfied that the Applicant was prevented by sufficient cause from presenting the application within the normal period of 3 months. 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.

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

Shubhagata Kumar
5/2/24
(Shubhagata Kumar)

Additional Secretary to the Government of India

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Order No. 29 /24-Cus dated 5.02.2024

Copy to:

1. The Commissioner of Customs (Appeals), BMTC Building, Above BMTC Bus Stand, Old Airport Road, Domlur, Bengaluru-560071.
2. Pr. Commissioner of Customs, 3rd Floor, AI SATS Cargo Terminal, Air Cargo Complex, Devanahalli, Bengaluru-560300.
3. PPS to AS(RA).
4. Guard file.
- ✓ 5. Spare Copy.
6. Notice Board.

Shailendra Kumar Meena
05/02/24
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