

SPEED POST



F.No. 373/209/B/SZ/2019-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. 28/12/23

Order No. 296/23-Cus dated 28-12-2023 of the Government of India passed by Smt. Shubhagata Kumar, Additional Secretary to the Government of India, under section 129DD of the Custom Act, 1962.

Subject: Revision Application filed, under Section 129DD of the Customs Act 1962, against the Order-in-Appeal No. C. Cus. I No.66/2019 dated 06.03.2019 passed by the Commissioner of Customs (Appeals-I), Chennai.

Applicant : Shri Sayed Shihab Tangal, Mangalore

Respondent : The Principal Commissioner of Customs, Chennai-I

ORDER

A Revision Application No.373/209/B/SZ/2019-RA dated 18.06.2019 has been filed by Shri Sayed Shihab Tangal, Mangalore (hereinafter referred to as the Applicant), against the Order in Appeal No. C. Cus. I No.66/2019 dated 06.03.2019, passed by the Commissioner of Customs (Appeals-I), Chennai. The Commissioner (Appeals-I) has upheld the Order-in-Original of the Assistant Commissioner of Customs (Airport), Chennai -I, Commissionerate, Chennai, bearing no. 158/2018-AIRPORT dated 17.07.2018.

2. Vide above mentioned order dated 17.07.2018, the lower adjudicating authority has ordered for absolute confiscation of foreign currency of various denominations viz. 60 Nos. Saudi Arabian Riyals (SAR) of denomination 500, 30 Nos. of Qatari Riyal of 500 denomination, 28 Nos. of Qatari Riyal of 100 denomination, 14 Nos. of Qatari Riyal of 50 denomination, 2 Nos. of Omani Riyal of 50 denomination, 6 Nos. of Omani Riyal of 5 denomination, 22 Nos. of UAE Dirham of 100 denomination and 4 Nos. of UAE dirham of 200 denomination totally equivalent to India Rs. 8,99,364/- under Section 113(d), (e) & (h) of the Customs Act, 1962 read with Foreign Exchange Management (Export and Import of Currency) Regulations, 2015. Besides penalty of Rs. 90,000/- was also imposed on the Applicant, under Section 114(i) of the Act, *ibid*. Aggrieved, the appeal filed by the Applicant before the Commissioner of Customs (Appeals-I), Chennai against the said Order-in-Original dated 17.07.2018 has been rejected.

3. Brief facts of the case are that the Applicant was bound for Dubai by Emirates Flight No. EK 547 on 11.04.2018 from Anna International Terminal of Chennai Airport. He was intercepted by the officers of AIU. On examination of his hand baggage, he was found to possess impugned assorted foreign currencies which were kept concealed inside the thermal foam with brown colour adhesive tape pasted in it and kept in between the layers of the laptop bag and on examination of the back pack bag, assorted foreign currencies rolled in between jeans pant were recovered. The Applicant accepted that he is not the owner of the impugned currency as the same was given by one Abdul Nazeer at

Mangalore with the instruction to handover it to an unknown person outside Dubai Airport for a monetary benefit of Rs. 10,000/-. He neither declared the currency to the Customs nor did he possess any valid document/permit from RBI as required under FEMA for export of the impugned currencies. The Lower Adjudicating Authority confiscated the impugned currency absolutely and also imposed personal penalty vide impugned Order-in-Original dated 17.07.2018. Aggrieved, the Applicant filed an appeal before the Commissioner of Customs (Appeals-I), Chennai which has been rejected.

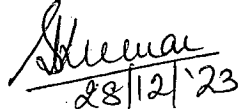
4. The revision application has been filed mainly on the grounds that the order of the lower authority is contrary to law, weight of evidence, circumstances and probabilities of the case; that the seized currency cannot be deemed to be prohibited or restricted goods. The prayer is to set aside the order and set aside/reduce the penalty imposed.

5. Personal hearings were scheduled on 18.10.2023, 06.11.2023 and 22.11.2023 respectively, but none appeared either from the Applicant's side or the Respondent's side. Therefore, the matter is taken up for decision based on the available records.

6. On examination of the relevant case records, it is observed that the impugned Order-in-Appeal dated 06.03.2019 was admittedly received by the Applicant on 08.03.2019. This position is stated by the Applicant himself in Column 5 of Customs Form No. C.A.-8. The instant revision application has been filed on 18.06.2019, i.e. after the expiry of three months from the date of receipt, i.e. 08.03.2019. 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, proviso to said sub-section (2) provides discretion to the Government to 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 03 months. In the present case, the revision application has been filed much beyond the normal

period of 03 months. The Applicant has failed to furnish any application for condonation of delay and has also failed to show sufficient cause which prevented him from presenting the instant Application within the normal period of three months despite being repeatedly informed vide letters dated 04.10.2023, 20.10.2023 and 07.11.2023 respectively. Therefore, the Government holds that the subject revision application is not maintainable as it is not filed in time, as provided under Section 129DD of the Customs Act, 1962.

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


28/12/23
(Shubhagata Kumar)

Additional Secretary to the Government of India

Shri Sayed Shihab Tangal,
21-9, Kasaba Bengre, Mangalore,
Dakshina Kannada-575001.

Order No. 296/23-Cus dated 28-12-2023

Copy to:

1. The Commissioner of Customs (Appeals-I), Chennai Airport & Air Cargo, 3rd floor, New Custom House, GST Road, Meenambakkam, Chennai – 600016.
2. The Principal Commissioner of Customs, Commissionerate-I, Chennai-I (Airport), New Custom House, Meenambakkam, Chennai-600027.
3. Dr. S. Krishnanandh, Advocate, AUM Associates, Suit No. 25, 1st Floor, R.R. Complex, No.1 Murthy Lane, Rattan Bazaar, Chennai-600003.
4. PPS to AS (RA).
5. Guard file.
- ✓ 6. Spare Copy
7. Notice Board

ATTESTED


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