

SPEED POST



F. No. 373/214/B/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. 5/2/24

Order No. 30/24-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. HYD-CUS-000-APP-084-18-19 dated 25.01.2019, passed by the Commissioner of Customs & Central Tax (Appeals-I), Hyderabad.

Applicants : Sh. Venkatesh Ollepu, Karimnagar

Respondent : Pr. Commissioner of Customs, Hyderabad

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ORDER

A Revision Application No. 373/214/B/2019-RA dated 01.07.2019 has been filed by Sh. Venkatesh Ollepu, Karimnagar (hereinafter referred to as the Applicant), against the Order-in-Appeal No. HYD-CUS-000-APP-084-18-19 dated 25.01.2019, passed by the Commissioner of Customs & Central Tax (Appeals-I), Hyderabad. The Commissioner (Appeals) has upheld the Order-in-Original No. 115/2018-Adjn.Cus(AC) dated 01.12.2018 passed by the Assistant Commissioner of Customs except to the extent of reducing the penalty imposed upon the Applicant under Section 112(a)(i) of the Customs Act, 1962 to Rs. 15,000/-. Vide the aforementioned Order-in-Original one gold bar, weighing 116.560 grams and valued at Rs. 3,53,643/-, recovered from the Applicant had been absolutely confiscated under Section 111(d), & (l) of the Act, *ibid*. Besides, a penalty of Rs. 40,000/- was also imposed upon the Applicant under Section 112(a)(i) of the Act, *ibid*.

2. Brief facts of the case are that the Applicant was intercepted by Customs officers at the exit gate of the Green Channel upon his arrival at RGI Airport from Dubai to Hyderabad on 01.12.2018. Upon being enquired whether he was in possession of any restricted/prohibited/dutiable goods, he replied in the negative. Upon being asked to whether he had filed Customs Declaration Form, he replied that he has not filed any Indian Customs Declaration Form. Upon the examination of his baggage, one gold bar of 116.560 grams, wrapped in black carbon paper & chocolate wrapper was found concealed inside LED Searchlight (torch light) in one of the carton boxes. On enquiry the Applicant stated that the said gold bar was purchased by his friend named Sagar from Thangals Jewellery LLC (BR) in Dubai vide Bill dated 29.11.2018 for 16920.00 DHS. He further informed that Sagar had himself concealed the gold bar in Torch light and placed it in one of the carton boxes, carried by the Applicant. The Applicant was asked to handover the same to Sagar's wife who resided near his home at Kandlapalley village, Karimnagar district. He carried the said gold bar as Sagar would give him a certain amount for his daughter's marriage. He further informed that he concealed the gold bar in such a way as to hoodwink the Customs

officers to avoid payment of Customs duty. The Approved Valuer appointed by Government of India assayed the impugned goods recovered from the Applicant and certified the gold bar to be of 24 carat purity, weighing 116.560 grams and valued at Rs. 3,53,643/-. The matter was adjudicated vide the aforesaid order dated 01.12.2018. Aggrieved, the Applicant filed an appeal before the Commissioner (Appeals), which was partially allowed as above.

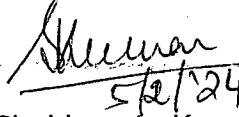
3. The revision application has been filed mainly on the grounds that the allegation that the impugned gold was concealed in the LED torchlight cannot be treated as ingenious concealment but it was for safety purpose; that gold is not a prohibited item; that option to redeem the gold may be given.

4. Personal hearing in the matter was held on 06.11.2023. Sh. Shivaji Rao, Advocate appeared on behalf of the Applicant and submitted on behalf of the Applicant that the submissions/grounds in the RA are reiterated; that additional submissions including citations have been submitted both in hard copy and by email. He further stated that the Applicant has sought condonation of delay in filing the RA as the OIA was received by the Applicant's wife who is illiterate and that the Applicant was out of the country at that time. He sought one day's time to submit a copy of the Applicant's passport to establish the same. No one appeared for the department nor any request for adjournment has been received. Hence, it is presumed that the department has nothing to add in the matter.

5. At the outset, the Government observes that the OIA impugned herein was received by the Applicant on 04.02.2019 whereas the RA has been filed on 01.07.2019. Therefore, the RA has been filed beyond the normal period of limitation of three months, as per sub-section (2) of Section 129DD *ibid*. A request for condonation of delay has been filed stating that the Applicant was out of India at the relevant time and his wife received the OIA but she misplaced it as she is illiterate; that after realizing the mistake she traced it and handed over to the GPA holder who received it after three months period. However, no evidence has been placed on record to show that

the Applicant was out of India at the relevant time even after the assurance made by the Advocate of the Applicant to provide the copy of Applicant's passport to establish the same. 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.


5/2/24
(Shubhagata Kumar)

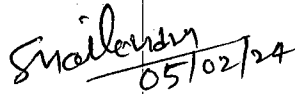
Additional Secretary to the Government of India

Sh. Venkatesh Ollepu
S/o Sh. Ramdasu Ollepu
Kandlapelly, Sarangapur
Karimnagar, Telangana-505454

Order No. 30/24-Cus dated 5.02.2024

Copy to:

1. Pr. Commissioner of Customs, GST Bhavan, L.B Stadium Road, Hyderabad-500004.
2. The Commissioner of Customs & Central Tax (Appeals-I), 7th Floor, GST Bhavan, L.B Stadium Road, Basheerbagh, Hyderabad-500004.
3. Sh. Shivaji Rao, Advocate & Consultant, Central Excise, Customs & Service Tax, Flat No. 201, Sri Lakshmi Narasimha Residency, H. No. 12-13-838, Gokul Nagar, Tarnaka, Secunderabad-500017.
4. PPS to AS(RA).
5. Guard File.
6. Spare Copy.
7. Notice Board.


05/02/24
ATTESTED
(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