

**SPEED POST**



F. No. 373/225/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...14/2/24

Order No. 41/24-Cus dated 13.02.2024 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 129 DD of the Customs Act 1962, against the Order-in-Appeal TCP-CUS-000-APP-005-19 dated 31.01.2019, passed by the Commissioner of Customs & Central Excise (Appeals-II), Tiruchirappalli.

Applicants : Sh. Abbas Ali, Chennai

Respondent : The Commissioner of Customs (P), Tiruchirappalli

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**ORDER**

Revision Application, bearing No. 373/225/B/2019-RA dated 08.07.2019, has been filed by Sh. Abbas Ali, Chennai (hereinafter referred to as the Applicant), against the Order-in-Appeal No. TCP-CUS-000-APP-005-19 dated 31.01.2019, passed by the Commissioner of Customs & Central Excise (Appeals), Tiruchirappalli. The Commissioner (Appeals) has upheld the Order-in-Original passed by the Assistant Commissioner of Customs (Airport), Tiruchirappalli bearing no. 127/2018 dated 19.08.2018, ordering absolute confiscation of (two gold cut pieces of 24 carat purity, totally weighing 87 grams & totally valued at Rs. 2,65,524/-), (19 cartons of Gudang Garam Cigarette totally valued at Rs. 22,800/- & 140 numbers of loose packets of Gudang Garam Cigarettes, totally valued at Rs. 8400/-) recovered from the Applicant under Sections 111(d), (i), (l), (m) & (o) of the Customs Act, 1962. Besides, other miscellaneous items recovered from the Applicant, collectively valued at Rs. 1,51,890/-, were held liable to confiscation under Sections 111(d), (i), (l), (m) & (o) of the Customs Act, 1962, however, they were allowed to be redeemed on payment of fine of Rs. 38000/-. Besides, penalty of Rs. 45,000/- was also imposed on the Applicant under Section 112(a) & (b) of the Act *ibid*.

2. Brief facts of the case are that above mentioned impugned goods were recovered from the Applicant upon his arrival at Trichy International Airport from Dubai on 05.08.2018. It was found that he had not opted to declare the said gold cut pieces or other items either in the Customs Declaration Form or orally to the Customs Officers. Further, it was noticed that he was a frequent flyer. On further enquiry, he admitted *inter alia* that he left for Dubai on 03.08.2018 and returned to Trichy on 05.08.2018, bringing the above said items for sale in India for monetary gain. Further, he did not have any bill for purchase of the said gold cut pieces and the rest of the goods brought by him.

The case was adjudicated by the original authority, *vide* aforementioned Order-in-Original dated 19.08.2018. Aggrieved, the Applicant filed an appeal before the Commissioner (Appeals), which was rejected as mentioned above.

3. The revision application has been filed by the Applicant mainly on the grounds that the Applicant had no bad antecedents, it is his first offence and the gold jewellery is brought only for his daughter's marriage; that the gold was kept in his pant pocket and

not concealed; and that the import of gold is not prohibited and be allowed to be redeemed. It is prayed to reduce the redemption fine imposed for other miscellaneous goods, set aside confiscation and release of cigarettes.

4. Personal hearing in the matter was fixed on 22.11.2023. No one appeared for either side on the date fixed. In the hearing held on 22.12.2023, Sh. T. Cheziyan, advocate appeared for the Applicant and submitted that his client was an Indian Passport holder; that in terms of the earlier import policy, a passenger could import 5 Kgs of gold; that even today, 1 Kg of gold can be imported without restriction. He sought option of RF, and that the impugned gold be released to the applicant upon payment of RF. He reiterated all the arguments in the application. None 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 31.01.2019 was received by the Applicant on 12.02.2019 as admitted by him. The revision application has been filed on 08.07.2019 which should have been filed on or before 12.05.2019. Thus, there is an inordinate delay of 56 days in filing the revision application. The reason cited for the delay has been attributed only to the Ramzan fasting by the Applicant. This reason does not appear to be credible as fasting does not incapacitate a person. Further, the delay is beyond the period of Ramzan. Thus, there was sufficient time even after fasting period to file the application. 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*  
13/2/24  
(Shubhagata Kumar)

Additional Secretary to the Government of India

Sh. Abbas Ali  
New No. 9/2, Old No. 4/1  
Methu Street, Mannady  
Chennai-600001.

Order No. 41/24-Cus dated 13.2.2024

Copy to:

1. The Commissioner of Customs & Central Excise (Appeals), No.1, Williams Road, Cantonment, Tiruchirapalli-620001.
2. The Commissioner of Customs (P), No. 1, Williams Road, Cantonment, Tiruchirapalli-620001.
3. Sh. T. Chezhiyan, Advocate, Third Floor, No. 99, Armenian Street, Chennai-600001.
4. PPS to AS(RA)
5. Guard File
6. Spare Copy
7. Notice Board

ATTESTED

*Sarabjeet Singh*  
13/2/24

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