

**SPEED POST**



F. No. 373/305/B/2019-RA  
F. No. 373/306/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. 29/2/24

Order No. 59-60/24-Cus dated 29-02-2024 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. VJD-CUSTOM-PRV-APP-012-19-20 dated 31.05.2019 passed by the Commissioner of Central Tax & Customs (Appeals), Guntur.
- Applicant : 1. Sh. Naseer Hussain, Kadapa.  
2. Sh. Pagidipalli Narasimhulu, Kadapa.
- Respondent : The Commissioner of Customs (Preventive), Vijayawada.
- .....

**ORDER**

Two Revision Applications, bearing Nos. 373/305/B/2019-RA and 373/306/B/2019-RA both dated 05.08.2019, have been filed by Sh. Naseer Hussain, Kadapa (hereinafter referred to as Applicant-1) and Sh. Pagidipalli Narasimhulu, Kadapa (hereinafter referred to as the Applicant-2) against the Order-in-Appeal No. VJD-CUSTOM-PRV-APP-012-19-20 dated 31.05.2019 passed by the Commissioner of Central Tax & Customs (Appeals), Guntur. The Commissioner (Appeals) rejected the appeals filed by both the Applicants against the Order-in-Original passed by the Joint Commissioner of Customs (P), Gopalapuram, bearing no. 43/2017-18-JC dated 13.02.2018, ordering absolute confiscation of gold biscuits/rings, totally weighing 1741.710 gms, valued at Rs. 51,40,958/-, recovered from the Applicants, under Section 111(d) of the Customs Act, 1962 along with the concealing material i.e. Mixi Jar, under Section 119 of the Customs Act, 1962. Besides penalties of Rs. 5,00,000/-, 2,50,000/- & 50,000/- were also imposed upon Applicant-1 under Sections 112, 114AA & 117 respectively of the Customs Act, 1962. Also, a penalty of Rs. 1,00,000/- was also imposed upon Applicant-2 under Section 117 of the Act *ibid*.

2. Brief facts of the case are that based on information received by the Commissioner of Customs (P), Vijayawada through the Assistant Commissioner of Central Excise & Service Tax, Anantapur Division that the Police Authorities, Patnam PS, Kadiri, Ananthapur on 30.06.2017 have intercepted a vehicle bearing no. AP04AV1553 carrying a passenger by name Sh. Naseer Hussain i.e. Applicant-1 while conducting surveillance of vehicles on NH-42 and recovered and seized from his possession foreign marked gold biscuits (cut to size) form, 4 gold rings under a Panchanama dated 29.06.2017. On being asked by the police during the said proceedings Applicant-1 expressed his inability to produce any valid/proper duty paid documents. Thereafter, the team of Customs officers reached the said police station where the entire sequence of events was narrated by the police and Applicant-1 was produced before the Customs officers along with the gold seized from him. Thereafter, the Customs officers approached Sh. Sharab Ramakrishna Chari, Jewellery Appraiser and requested him to verify the purity and valuation of the seized

gold. The jewellery appraiser gave his report and as per the report the total weight of the seized gold is 1740.710 grams with 99.99% purity and valued at Rs. 51,40,958/-.

The matter was adjudicated vide the aforesaid order dated 13.02.2018. Aggrieved, the Applicants filed appeals before the Commissioner (Appeals), which have been rejected.

3. The instant revision application has been filed by Applicant-1 mainly on the grounds that the imposition of penalty under Section 112 is gravely high and atleast the quantum is to be modified; that penalty imposed under Section 114AA is wholly illegal and without jurisdiction; that penalty under Section 117 is not invocable as it is meant for imposing penalty where no express penalty is elsewhere provided for contravention and when adjudicating authority has specifically imposed a penalty under Section 112 of the Customs Act, 1962, there is no scope and jurisdiction to impose penalty under Section 117.

4. The instant revision application has been filed by Applicant-2 mainly on the grounds that he stated in his statement that he did not know about the presence of gold; and that the seizure has not been effected from him and his statement is exculpatory.

5. Personal hearings were fixed for 22.01.2024, 07.02.2024 and 16.02.2024. In the hearing held on 16.02.2024, Sh. Cheziyan, Advocate appeared on behalf of the applicants and Sh. Vamsi Krishna, Supdt. & Assistant Commissioner, Tirupati appeared on behalf of the Respondent. Both stated that this case is a town seizure and appeal shall lie before the Hon'ble CESTAT and not at RA. The Applicants prayed that RA record the same and pass an order accordingly.

6. The Government has carefully examined the matter. It is observed that the goods in question were seized from the possession of the Applicants on the road and both the Applicant and Respondent have stated that this is a town seizure and appeal shall lie before the Hon'ble CESTAT and not at RA since the instant case does not fall in the category of cases listed in the first proviso to Section 129A(1) of the Customs Act, 1962.

7. In view of the above, the revision applications are rejected, as not maintainable under Section 129DD.

8. So ordered.

*Shubhagata Kumar*  
29/2/24  
(Shubhagata Kumar)

Additional Secretary to the Government of India

1. Sh. Naseer Hussain Y.M  
S/o Sh. Basheer Ahmed, Gold Smith  
Poddatur, H.No. 14/484, Dastagiripet  
Proddatur, Kadapa District
2. Sh. Pagidipalli Narasimhulu  
S/o Sh. Narasimhulu  
16-159, Nadimpalli  
Proddatur, Kadapa District

Order No. 59-60/24-Cus dated 29-02-2024

Copy to:

1. The Commissioner of Customs & Central Tax (Appeals), 3<sup>rd</sup> floor, C.R Buildings, Kannavarithota, Guntur-522004.
2. The Commissioner of Customs (Preventive), D.No. 55-17-3, C-14, Second Floor, Near CGO Complex, Industrial Estate, Autonagar, Vijayawada.
3. Sh. T. Chezhiyan, Advocate, No. 99, Armenian Street, 3<sup>rd</sup> Floor, Chennai-600001.
4. PPS to AS(RA).
5. Guard File.
6. Spare Copy.
7. Notice Board.

*Shailendra Kumar Meena*  
29/02/24  
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