

**SPEED POST**



F. No. 373/385/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..21/03/24

Order No. 78 /24-Cus dated 21-03-2024 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. COC-CUSTM-000-APP-23/2019-20 dated 11.06.2019, passed by the Commissioner of Customs (Appeals), Cochin.

Applicant : Sh. Siddeque Vellachalil, Kozhikode

Respondent : The Commissioner of Customs, Cochin

.....

**ORDER**

A Revision Application, bearing No. 373/385/B/2019-RA dated 29.09.2019, has been filed by Sh. Siddeque Vellachalil, Kozhikode (hereinafter referred to as the Applicant), against the Order-in-Appeal No. COC-CUSTOM-000-APP-23/2019-20 dated 11.06.2019, passed by the Commissioner of Customs (Appeals), Cochin. The Commissioner (Appeals) vide his aforementioned order rejected the appeal of the applicant and upheld the order of original authority. The matter was adjudicated vide O.S No. 11 dated 14.01.2018 by Assistant Commissioner of Customs (Airport), Cochin vide which one crude gold chain, weighing 116.600 grams and valued at Rs. 3,12,109/- (international value) & Rs. 3,58,545/- (market value) recovered from the Applicant was absolutely confiscated under Section 111(d), (i), (l) & (m) of the Customs Act, 1962. Besides a penalty of Rs. 10,000/- was also imposed upon the applicant under Section 112 (a)&(b) of the Act, *ibid*.

2. Brief facts of the case are that the Applicant arrived at Cochin International Airport from Dubai, on 14.01.2018 and brought with him one crude gold chain. The gold chain was kept in one black coloured cloth pouch and concealed in show worn by the Applicant. Since the chain was undeclared and concealed by the Applicant, the original authority confiscated the same absolutely.

The matter was adjudicated by the original authority, vide aforesaid Order-in-Original dated 14.01.2018. Aggrieved, the Applicant filed an appeal before the Commissioner (Appeals), which has been rejected.

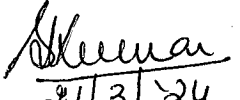
3. The revision application has been filed mainly on the grounds that the gold chain was not concealed but was only secured on his body as is usually done by passengers; that the seizure of the gold chain was made not because of non declaration but because he was not an eligible passenger; that the seized gold be allowed for re-export; that Section 125 should have been invoked as gold is now a freely importable commodity; and that the penalty is excessive and is liable to be reduced.

4. Personal hearing in the matter was held on 14.02.2024 in which Sh. Zahir, Advocate appeared for the Applicant and submitted that the applicant brought only one gold chain weighing 116.600 grams; though it was concealed in his socks it was not ingenious concealment; that customs has not made out a case of non-declaration hence absolute confiscation is not warranted and that re-export should be permitted; that the seizure was made in 2018 whereas in 2017 gold was made freely importable by amending the earlier order of 1993 and the rules under section 3 have since been withdrawn. He further submitted that the applicant was prevented by Customs from declaring the gold; that the quantity was small, the applicant is not a carrier and that the absolute confiscation and penalty imposed are too harsh. The Respondents submitted that the applicant was intercepted at the DFMD at the exit gate and thus had no intent of declaring

the gold; that despite repeated questioning the applicant denied possession of the gold which is mentioned in the mahazar.

5. On examination of the relevant case records, it is observed that the impugned Order-in-Appeal dated 11.06.2019 was received by the Applicant on 28.06.2019 as admitted by him. The revision application has been filed on 29.09.2019. Thus, there is a delay of 2 days in filing the revision application. The applicant has not submitted the condonation of delay application despite being queried repeatedly by this office vide letters dated 23.01.2024 & 31.01.2024. As per sub-section (2) of the Section 129DD of the Customs Act, 1962, there is no provision for the government to condone the delay *suo motto*. Since no application for condonation of delay has been filed by the applicant, 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.

  
21/3/24  
(Shubhagata Kumar)

Additional Secretary to the Government of India


Sh. Siddeque Vellachalil  
Vellachalil, Chalil House  
Parappanpoyil P.O  
Thamarassery, Kozhikode-673573

Order No. 78 /24-Cus dated 21-03-2024

Copy to:

1. The Commissioner of Customs (Appeals), Custom House, Willingdon Island, Cochin-682009
2. The Commissioner of Customs, Custom House, Willingdon Island, Cochin-682009
3. Sh. Mohammed Zahir, Advocate, 3/57-A, Nedungadi Gardens, West Nasakkavu, Calicut-673011
4. PPS to AS(RA).
5. Guard File.
6. Spare Copy.
7. Notice Board.

ATTESTED

  
21/3/24  
सरबजीत सिंह / SARABJEET SINGH  
अधीक्षक / Superintendent (R.A. Unit)  
वित्त मंत्रालय / Ministry of Finance  
राजस्व विभाग / Department of Revenue  
Room No. 605, 6th Floor., B-Wing  
14, Hudco Vishala Building, Bhikaji Cama Place,  
New Delhi-110016