

SPEED POST



F. No. 373/456/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...5/4/24.

Order No. 90/24-Cus dated 3-4-2024 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 129DD of the Customs Act 1962 against Order-in-Appeal No. SEAPORT – C.Cus.II No. 518/2019 dated 04.11.2019 passed by the Commissioner of Customs (Appeals-II), Customs House, Chennai.

Applicant : Sh. S. Maria Selvaraj, Chennai

Respondent : Pr. Commissioner of Customs (Preventive), Chennai.

ORDER

A Revision Application No. 373/456/B/2019-RA dated 11.11.2019 has been filed by Sh. S Maria Selvaraj, Chennai (hereinafter referred to as "Applicant") against Order-in-Appeal No. SEAPORT – C.Cus.II No. 518/2019 dated 04.11.2019 passed by the Commissioner of Customs (Appeals-II), Customs House, Chennai vide which the Commissioner (Appeals) has upheld the Order-in-Original of the Joint Commissioner of Customs, Preventive Commissionerate, Chennai, bearing no. 67228/2019 dated 22.01.2019. Vide the aforementioned Order-in-Original, 9.120 Kg of foreign origin gold bars recovered from the Applicant valued at Rs. 2,67,76,320/-, had been absolutely confiscated under Section 111(a) & 111(d) of the Customs Act, 1962. Besides, penalty of Rs. 10,00,000/- was also imposed on the Applicant under Section 112 of the Act, *ibid*. Further, penalty of Rs. 50,00,000/- was also imposed on one Sh. Selvam @ Shri Kawthu under Section 112 of the Act, *ibid*.

2. The brief facts leading to the present proceedings are that consequent upon receipt of intelligence, the Directorate of Revenue Intelligence, Chennai Zonal Unit (hereinafter referred as CZU-DRI) maintained surveillance at platform no. 9 at Central Railway Station on 15.02.2016. After the arrival of Howrah-Chennai Mail, the officers perused the tickets of the passengers alighting from coach B@ of Chennai Mail and intercepted the applicant and one other lady passenger namely Smt. Saraswathy. The officers enquired the said two passengers whether they were having any foreign marked gold bars in their person or in their luggage, to which both of them replied in the negative. On persistent enquiry by the officers, the applicant admitted that he was carrying 9 packets of foreign marked gold bars in the pouches of the waist jacket which he was wearing inside his shirt. Upon the search of his person aforementioned gold was recovered in 20 bars of different weights. The approved appraiser assayed the said gold bars and certified them to be of 24 carat purity of 999 each totally weighing 9.120 Kg and valued at Rs. 2,67,76,320/-.

In his statement dated 15.02.2016, the applicant stated inter-alia that he had collected the foreign origin gold bars from Sh. Kawthu @ Selvam of Myanmar and concealed them in the waist coat given by Sh. Selvam and had brought the same to Chennai by Howrah-Chennai Main train; that some unknown person would come and collect the same from his house; that he did not know either the name of the person collecting the gold or his mobile no.; that the said foreign origin gold bars were smuggled into India from Myanmar and that he carried the smuggled gold bars for a monetary consideration of Rs. 20,000/- to Rs. 30,000/-. The matter was adjudicated by the original authority vide order dated 22.01.2019. Aggrieved, the applicant filed an appeal before the Commissioner (Appeals) which has been rejected.

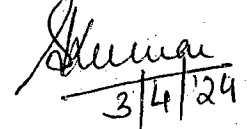
3. The instant revision application has been filed, mainly, on the grounds that his statement was extracted from him using threat and intimidation; that according to the appraiser certificate there is no evidence that the seized gold contains marking; that the contention of the department that the seized gold is of foreign origin received from Indo Burma border is based on non-existent material; that import of gold is dutiable and not prohibited; that the adjudicating authority has not exercised the option under Section 125 of the Customs Act, 1962; and that the absolute confiscation of the gold and imposition of personal penalty of Rs. 10 lakhs under Section 112 is very high and the same be reduced substantially.

4. Personal hearing was held on 03.04.2024. Ms. P. Kamalamalar, advocate appeared for the Applicant and submitted that the applicant has not given her the required papers to defend this case. Moreover, this a case of seizure in the local train and does not pertain to baggage as such, therefore the appeal will lie to CESTAT and not to RA, which has been incorrectly filed.

5. The Government has carefully examined the matter. It is observed that the goods in question were seized at the Chennai Railway Station and there is nothing on record to indicate that seized goods were imported as baggage. As such, 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. Hence, the revision application is not maintainable under Section 129DD.

6. In view of the above, the Revision Application is rejected as withdrawn, with liberty to the Applicant to approach the appropriate forum, as per law.


3/4/24

(Shubhagata Kumar),
Additional Secretary to the Government of India

Sh. S. Maria Selvaraj
No. 43, Kolkata Shop 1st Street
Madhavaram, Chennai-600051.

Order No. 90/24-Cus dated 3-4-2024

Copy to:

1. The Commissioner of Customs (Appeals-I), Chennai Airport & Chennai Air Cargo, 3rd Floor, New Custom House, GST Road, Meenambakkam, Chennai-600016.
2. The Pr. Commissioner of Customs, Preventive, Customs House, 60 Rajaji Salai, Chennai-600001.
3. Ms. P. Kamalamalar, Advocate, No. 10, Sunkram Street, Second Floor, Chennai-600001.
4. PPS to AS(RA).
5. Guard File.
6. Spare Copy.
7. Notice Board.

ATTESTED


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-110066