

**SPEED POST**



**F. No. 373/433/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. 8/4/24

Order No. 92/24-Cus dated 8-4-2024 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. CAL-EXCUS-000-APP-357 & 358 – 2019 dated 29.03.2019 passed by the Commissioner of Customs (Appeals), Cochin.

**Applicant** : Sh. Saheer V.P, Kannur

**Respondent** : The Commissioner of Central Excise & Customs, Calicut

**ORDER**

A Revision Application No. 373/433/B/2019-RA dated 22.10.2019 has been filed by Sh. Saheer V.P, Kannur (hereinafter referred to as 'the Applicant') against the Order-in-Appeal No. CAL-EXCUS-000-APP-357 & 358 - 2019 dated 29.03.2019 passed by the Commissioner of Customs (Appeals), Cochin. The Commissioner (Appeals) has upheld the Order-in-Original No. 78/2015-16 dated 29.03.2016, passed by the Joint Commissioner of Central Excise & Customs, Calicut, vide which 13 gold sticks, totally weighing 465 grams, collectively valued at Rs. 11,92,097/-, recovered from one Sh. Muhammed Fasil, were absolutely confiscated under Section 111(d), (i), (j), (l), (m) and (o) of the Customs Act, 1962. Besides this, the following penalties were imposed:-

S.No.	Penalty under Section 112(a)&(b) (in Rs.)	Penalty under Section 114AA (in Rs.)
Sh. Muhammed Fasil	1,25,000	1,25,000
Sh. Saheer (Applicant)	1,00,000	-

2. Brief facts of the case are that the officers of Customs intercepted one Muhammed Fasil on 02.12.2013 upon his arrival at Calicut International Airport from Dubai, while he was proceeding towards and was about to cross the exit gate of Customs Baggage Hall after having opted for Green Channel clearance. On enquiry by the officers as to whether he was in possession of any non-duty paid gold or any other valuables, he replied in the negative. Upon verification of his Customs Declaration Form, it was found that he had shown the total value of goods imported as Rs. 10,000/-. Upon the examination of his checked-in baggage, 13 sticks of yellow metal were recovered which were concealed inside the sketch pen packet. The said 13 sticks of yellow metal were subjected to purity check by Sh. N.V Unnikrishnan, Aswathy House, P.O Kondotty, Malappuram and he certified that each stick was of 24 carat gold and totally weighed 465 grams.

In his statement dated 02.12.2013, recorded under Section 108 of the Customs Act, 1962, Sh. Muhammed Fasil stated inter-alia that in 2012 he went to

Dubai; that he worked there in his cousin's shop for over 40 days and came back to India; that after one month he again went to Dubai and after spending 35 days he returned to India; that after a few months he again went to Dubai on 24.10.2013 and returned on 02.12.2013; that when he informed his friend Sh. Saheer (the applicant) about his intention to go to India, he informed him that he would be paid 300 Dirhams, if he took a few house hold utensils and dresses belonging to his friend Sh. Salah; that he (Sh. Muhammed Fasil) agreed to take the same for his friend; that accordingly, Sh. Salah came with his goods in a bag to his room and entrusted with him 300 Dirhams; that Sh. Salah informed him that after he reached his residence, a person would visit his residence and he (Sh. Muhammed Fasil) should hand over the goods he (Sh. Salah) had entrusted with him; that he reached Calicut that day at about 07:00 in the morning; that when he reached at the exit gate of the baggage hall after collecting hand bag at the hand bag X-ray and checked-in baggage, he was stopped at the exit gate of Baggage Hall; and that he had tried to go out of Baggage Hall, opting Green Channel, without undergoing Customs checking and clearances.

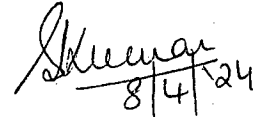
The matter was adjudicated vide order dated 29.03.2016. Aggrieved, the applicant filed appeal before the Commissioner (Appeals) which has been rejected.

3. The instant revision application has been filed, mainly, on the grounds that the issuance of the Show Cause Notice to the Applicant was without observing the principles of natural justice; that the investigation agency did not make efforts to explore the possibility of Muhammed Fasil himself intentionally smuggling the gold and falsely implicating others; that the finding of guilt against the applicant in the impugned orders solely based on the retracted testimony of Sh. Muhammed Fasil is against the settled principles of law; and that there is no allegation that the applicant had acquired possession or was in any way concerned in carrying, removing, depositing, harboring, keeping, concealing, selling or purchasing, or in any other manner dealing with the subject gold.

4. The personal hearing was scheduled on 20.03.2024 & 08.04.2024. None appeared for the Applicant nor for the respondent. No request for adjournment has also been received. Since sufficient opportunities have been granted, the matter is taken up for disposal based on records.

5. The Government has carefully examined the matter. It is observed that the instant revision application has been filed without being accompanied by the fee required in terms of sub-section (3) of Section 129DD, ibid. Since the Applicant has not fulfilled this mandatory requirement, despite being advised to do so, vide letters dated 21.07.2020, 13.03.2024 and 01.04.2024, the revision application is therefore liable to be rejected as non-maintainable.

6. The revision application is therefore rejected without traversing the merits of the case.



(Shubhagata Kumar)

Additional Secretary to the Government of India


Sh. Saheer V.P.  
H.No. II/254, Valiya Parambath House,  
Laksham Veedu, (PO) Panoor, Kannur.

Order No. 92/24-Cus dated 8-4-2024

Copy to:

1. The Commissioner of Customs (Appeals), C.R Building, I.S Press Road, Kochi-682031
2. The Commissioner of Central Excise, Customs & Service Tax, C.R Building, Mananchira, Calicut-673001.
3. PPS to AS(RA).
4. Guard File.
5. Spare Copy.
6. 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