

SPEED POST



F. No. 373/392/B/2022-RA
F. No. 373/393/B/2022-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..18/09/24..

Order No. 195-196/24-Cus dated 18-09-2024 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 Applications filed, under Section 129 DD of the Customs Act 1962 against the Order-in-Appeal Nos. VJD-CUSTOM-000-APP-112-2021-22 & VJD-CUSTOM-000-APP-110-2021-22 both dated 29.03.2022 passed by the Commissioner of Central Tax & Customs (Appeals), Guntur.

Applicant : 1. Sh. Shaik Mohammad Ashraf, Kadapa.
2. Sh. Shaik Mohammad Ali, Kadapa.

Respondent : The Commissioner of Customs (Preventive), Vijayawada.

ORDER

Two Revision Applications, bearing Nos. 373/392/B/2022-RA and 373/393/B/2022-RA both dated 06.09.2022, have been filed by Shaik Mohammad Ashraf, Kadapa & Shaik Mohammad Ali, Kadapa (hereinafter referred to as Applicant-1 & Applicant-2 respectively) against the Order-in-Appeal Nos. VJD-CUSTOM-000-APP-112-2021-22 & VJD-CUSTOM-000-APP-110-2021-22 both dated 29.03.2022 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 Additional Commissioner of Customs (P), Gopalapuram, bearing no. 04/2020-21(Cus.) dated 31.12.2020, ordering absolute confiscation of gold biscuits of 99.99% purity, totally weighing 2320 gms, valued at Rs. 71,64,160/-, recovered from the Applicant-1, under Section 111(d) of the Customs Act, 1962. Besides penalties of Rs. 10,00,000/-, 20,00,000/- & 1,00,000/- were also imposed upon Applicant-1, Applicant-2 & one Mohammad Khalik Ali Khan Niyaji under Sections 112(a)&(b)(i), 112(a)&(b)(i) & 117 respectively of the Customs Act, 1962.

2. Brief facts of the case are that on 27.05.2018, the police officers of Tirupathi Urban Task Force while checking vehicles at Renigunta, Railway Kodur main road, Renigunta Mandal seized foreign marked gold biscuits weighing 2320 grams valued at Rs. 71,64,160/- from Applicant-1. Later the officers of Customs, Division Tirupathi took possession of the seized gold under Mahazar dated 31.05.2018. The gold appraiser of Indian Overseas Bank verified the purity and valuation of the seized gold as mentioned above. Applicant-1 narrated the sequence of events in detail and based on that the statements of Applicant-2 and two other person were recorded under Section 108 of the Customs Act, 1962 vide which they accepted their role in smuggling activity.

The matter was adjudicated vide the aforesaid order dated 31.12.2020. 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 he had purchased the seized gold from Dubai out of his earnings; that gold is not a

prohibited item; and that the option of redemption under Section 125 of the Customs Act, 1962 is a mandatory provision.

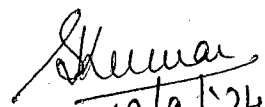
4. The instant revision application has been filed by Applicant-2 mainly on the grounds that there was no seizure from him; that the show cause notice is not clear as to which sub-section of Section 112 the applicant has violated; and that penalty has been imposed upon him based on vague, uncorroborated statements of co-noticees.

5. Personal hearing was held on 13.09.2024. Sh. Vamsi Krishna, Superintendent Tirupati Division appeared for the Respondent and submitted at the outset this being a case of town seizure, the appeal shall lie before Hon'ble CESTAT and that the applicant has wrongly approached the Revisionary Authority, hence the RA merits rejection. He quoted similar cases where RA has rejected the application, enabling the applicant to approach the correct appellate forum. No one appeared for the applicants nor has any request for adjournment been received. Hence, the matter is being taken up for disposal based on available records.

6. The Government has examined the matter. It is observed that the goods in question were seized from the possession of the Applicant-1 on the road at Renigunta. Therefore 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 and the revision application is not maintainable under Section 129DD.

7. In view of the above, the revision applications are rejected as not maintainable.

8. So ordered.


18/9/24
(Shubhagata Kumar)

Additional Secretary to the Government of India

1. Sh. Shaik Mohammad Ashraf
D.No. 7/82, J-1-B, 1st Floor
Nunevaripalli, Nalanda College Road
Rajampet, Kadapa, Andhra Pradesh
2. Sh. Shaik Mohammad Ali

S/o Sh. Shaik Khasumiya
D.No. 18-1226, Agadi Street
Bellary Road, Kadapa, Andhra Pradesh

Order No. 195-196/24-Cus dated 18-09-2024

Copy to:

1. The Commissioner of Central Tax & Customs (Appeals), D.No. 3-30-15, Ring Road, Guntur-522006.
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, 3rd Floor, Chennai-600001.
4. PPS to AS(RA).
5. Guard File.
6. Spare Copy.
7. Notice Board.

Shailendra
18/9/24
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
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