

F. No. 373/252/B/SZ/2020-RA  
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**SPEED POST**



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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. 04/12/24.

Order No. 240-242/24-Cus dated 04-12-2024 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 Applications under Section 129 DD of the Customs Act, 1962, against the Order-in-Appeal No. HYD-CUS-000-APP-039-19-20(APP-I) dated 21.10.2019, passed by the Commissioner of Customs & Central Tax (Appeals), Hyderabad.

Applicants : Shri Mohammed Faisal Khan, Hyderabad  
Shri Mohammed Mustafa Khan, Hyderabad  
Smt. Ayesha Anjum, Hyderabad

Respondent : The Principal Commissioner of Customs, Hyderabad

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**ORDER**

Three Revision Applications, bearing Nos. 373/252/B/SZ/2020-RA, 373/253/B/SZ/2020-RA and 373/254/B/SZ/2020-RA all dated 07.11.2020, have been filed by Shri Mohammed Faisal Khan, Hyderabad, Shri Mohammed Mustafa Khan, Hyderabad and Smt. Ayesha Anjum, Hyderabad respectively (hereinafter referred to as the Applicant-1, Applicant-2 & Applicant-3 respectively) against the Order-in-Appeal No. HYD-CUS-000-APP-039-19-20(APP-1) dated 21.10.2019, passed by the Commissioner of Customs & Central Tax (Appeals), Hyderabad. The Commissioner (Appeals) has upheld the Order-in-Original of the Additional Commissioner of Customs, GST Bhawan, L.B. Stadium Road, Hyderabad, bearing no. 66/2018-Adjn.Cus (ADC) dated 23.08.2018, ordering absolute confiscation of four gold bars weighing 796 grams valued at Rs.23,08,400/- and one gold necklace weighing 73.50 grams valued at Rs.1,85,220/- from the Applicant-2 & 3 under the provisions of Sections 111(d), 111(i), 111(j) and 111(l) of the Customs Act, 1962. Besides, penalties of Rs. 5,00,000/- Rs. 4,00,000/- and Rs.4,00,000/- were also imposed on Applicant-1, Applicant-2 and Applicant-3 respectively under Section 112(b) of the Customs Act, 1962. Aggrieved, the Applicants-1, 2 and 3 filed appeals before the Commissioner (Appeals) who has upheld the O-I-O and rejected the appeals of the Applicants except to the extent of reducing the penalty from Rs. 4 lakhs to Rs. 2 lakhs each, imposed on the Applicants-2 and 3 only. Aggrieved by the O-I-A, above revision applications have been filed by the Applicants-1, 2 and 3.

2. Based on the investigation conducted by DRI, the Applicants-1, 2 and 3 were issued a show cause notice F.No. DRI/HZU/48C/ENQ-21 (INT-NIL) 2017 dated 17.10.2017 for their alleged involvement in smuggling of gold into the country. While the Applicant-1 was alleged to have played the role of a middleman in smuggling of gold, the Applicants-2 and 3 were alleged to have smuggled gold into the country by concealment without making a declaration to the Customs. As per the facts on record, on dated 14.07.2017, the DRI officers intercepted the Applicants-1 and 3 when the Applicant-3, who arrived from Jeddah by flight No. AI966 brought two foreign marked gold bars and one gold necklace by concealment without making a declaration to the Customs and handed over the same to

Applicant-1. Further, based on the inputs given by Applicant-1, the DRI officers also intercepted Applicant-2, who arrived from Jeddah by flight No. SV754 as he was also found to have carried two foreign marked gold bars in his hand baggage which were not declared to the Customs. As the gold bars and the gold necklace were attempted to be smuggled into the country in contravention of the restrictions in force and provisions of the Customs Act, 1962, the DRI officers seized the same under a panchanama and thereafter conducted investigation into the matter. The investigation conducted by DRI revealed that Shri Ameen Bhai of Jeddah hatched a conspiracy to smuggle gold into the country and accordingly took help of the Applicants-2 and 3 coming from Jeddah to Hyderabad to bring the gold into the country by bypassing Customs. As part of the plan, the Applicant-1 was to collect the gold smuggled into the country by the two passengers, thus abetting the conspiracy of smuggling gold by taking over the contraband from the Applicant-3 on her arrival at the RGI Airport.

3. The above Revision Applications have been filed by the Applicants-1, 2 and 3 mainly on the grounds that the appellate authority had not considered the submissions made before him and levied a disproportionately high penalty on the Applicants; that gold is not a prohibited item; that the benefit of redemption is not given; that they are entitled to re-export of goods under Section 80 of the Customs Act, 1962. It has been prayed that imposition of penalty on the Applicants who are not smugglers or habitual offenders is very high that they do not have any source of income and will be put to severe hardship if the penalties are not reduced or fully waived and have requested to set aside the impugned order dated 21.10.2019 with consequential relief to them.


4. Personal hearing in the matter was fixed on 13.11.2024. Shri Mohammad Asrar on the applicant side vide email dated 12.11.2024 requested for adjournment of hearing and no one appeared from respondent side. Further, personal hearing was fixed on 27.11.2024. Shri Mohammed Asrar Ahmed, Advocate of M/s. YSR Associates appeared on behalf of the Applicants and submitted that the O-I-A was received on 24.10.2019, but the applicants took time to decide the cause of action and once the counsel was engaged, the RAs were filed. Upon being asked the cause of the delay, he submitted that the delay was

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attributable not to the counsel but to the applicants. He further submitted that the delay was probably due to the COVID pandemic. Upon being pointed out that the delay is before the COVID period and comes to more than 50 days even after excluding the COVID period, he nevertheless seeks that the delay be condoned, to which end he was not able to establish 'Sufficient Cause' for the delay in all the three RAs. No one appeared from the Respondent department side and also no any request for adjournment has been received, thus it is clear that the Department has nothing further to add in the matter.

5. The Government observes that the impugned Order-in-Appeal dated 21.10.2019 was received by all the Applicants-1, 2 and 3 on same date i.e. on 24.10.2019 as admitted by them. The above revision applications have been filed on 07.11.2020. Thus, there is a delay of more than one year from the date of receipt of O-I-A. In terms of sub-section (2) of the Section 129DD of the Customs Act, 1962, an application under sub-section (1), i.e., revision application can be made within 3 months from the date of communication of the order against which the application is being made. However in terms of the proviso to sub-section (2) the Government may allow an application to be presented within a further period of three months if the Government is satisfied that the Applicant was prevented by sufficient cause from presenting the application within the normal period of three months. Further, The Hon'ble Supreme Court vide its order dated 10.01.2022, has excluded the period from 15.03.2020 till 28.02.2022 in computing the period of limitation during the COVID/lockdown period. The impugned O-I-A was received by all the applicants well before the COVID period and does not qualify for Condonation of Delay in filing the said RAs. Also, applicants have failed to submit any 'sufficient cause' for delay. Therefore, the said revision applications are rejected under Section 129DD of the Customs Act, 1962 on grounds of limitation without traversing the merits of the case.

6. In view of the above, the revision applications are rejected.

  
4/12/24  
(Shubhagata Kumar)

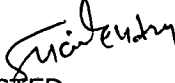
Additional Secretary to the Government of India

1. Shri Mohammed Faisal Khan,  
S/o Shri Mohammed Yakoob Khan,  
H. No. 17-3-325/5/4/B, Yakutpura,  
Bada Bazar, Hyderabad – 500 023
2. Shri Mohammed Mustafa Khan,  
S/o Shri Mohammed Ibrahim Khan,  
H. No. 17-3-3-1/1, Yakutpura,  
Rain Bazar, Hyderabad – 500 023
3. Smt. Ayesha Anjum,  
W/o Shri Mohd. Masiuddin Aslam,  
H. No. 10-2-318/1/10, Near Firdos Masjid  
Vijayanagar Colony, Mallepally,  
Hyderabad – 500 057

Order No. 240-242/24-Cus dated 04-12-2024

Copy to:

1. The Commissioner of Customs & Central Tax (Appeals-I), 7<sup>th</sup> Floor, GST Bhavan,  
L.B Stadium Road, Basheerbagh, Hyderabad-500004
2. The Principal Commissioner of Customs, GST Bhavan, L.B Stadium Road,  
Hyderabad-500004.
3. M/s. YSR Associates, E-510, 5<sup>th</sup> Floor, SVSS Nivas, Road No.1, Czech Colony, Opp.  
Gokul Theatre, Erragadda, Hyderabad – 500 018
4. PPS to AS (RA).
5. Guard file.
6. ✓ Spare Copy
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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

