

**SPEED POST**



F. No. 373/46/B/SZ/2021-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. 28/03/25

Order No. 38/25-Cus dated 28-03-2025 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. TCP-CUS-000-APP-39&40-21 dated 02.02.2021, passed by the Commissioner of GST & Central Excise (Appeals), Tiruchirappalli.

Applicant : Sh. Shankar, Kattani Patti, Sivaganga.

Respondent : The Commissioner of Customs (P), Tiruchirappalli.

**ORDER**

A Revision Application No. 373/46/B/SZ/2021-RA dated 22.02.2021, has been filed by Sh. Sankar, Kattani Patti, Sivaganga (hereinafter referred to as the Applicant), against the Order-in-Appeal No. TCP-CUS-000-APP-39&40-21 dated 02.02.2021 passed by the Commissioner of GST & Central Excise (Appeals), Tiruchirappalli. The Commissioner (Appeals) has rejected the appeal filed by the Applicant and the appeal filed by the department against the order-in-original passed by the Joint Commissioner of Customs (Airport), Tiruchirappalli, bearing No. 379/2019 dated 08.01.2020 vide which two nos. of gold chains and one no. of gold ring of 22 carat purity totally weighing 49.00 grams valued at Rs.1,72,172/- recovered from the Applicant, had been absolutely confiscated under Section 111(d), 111(i), 111(l) & 111(m) of the Customs Act, 1962 read with Section 3(3) of the Foreign Trade (Development and Regulation) Act, 1992. However, the Adjudicating authority has allowed the goods to be redeemed on redemption fine of Rs. 51,562/-. Besides, a penalty of Rs. 51,562/- was also imposed on the Applicant, under Section 112(a) of the Act, *ibid*.

2. Brief facts of the case are that, the Applicant an Indian passport holder who arrived at Trichy Airport on 27.12.2019 from Kuala Lumpur and he brought two gold chains and one gold ring, totally weighing 49.00 grams valued at Rs.1,72,172/- having 22 carat purity. It was found that the applicant did not declare the impugned gold items to Customs. The applicant also accepted in his statement that he did not possess currency for payment of Customs duty and did not possess any valid documents for import of gold at the time of arrival and he was carrying the gold without paying Customs duty in order to earn profit. The applicant admitted his offence and pleaded guilty.

3. The matter was adjudicated by the original authority vide Order-in Original No. 379/2019 dated 08.01.2020. The original authority vide aforementioned Order-in-Original ordered for absolute confiscation of impugned gold and allowed the goods to be redeemed on redemption fine of Rs. 51,562/-. A penalty of Rs. 51,562/- was also imposed on the Applicant, under Section 112(a) of the Act, *ibid*. Aggrieved, the department filed an appeal before Commissioner (Appeals) on the grounds that the passenger did not declare the impugned gold in Customs Declaration Form as required under Section 77 of the Customs Act, 1962; that the passenger attempted to smuggle

gold chains and gold ring into India with intention to evade payment of duties; that penalty imposed is very low when considered the gravity of offence.

4. Aggrieved by the order of original authority, the party filed an appeal before Commissioner (Appeals) on the ground that his stay abroad was four year and seven month ( i.e from 25.05.2015 to 27.12.2019); that he expressed his willingness to pay the Customs duty but the officers of Customs refused to accept the same; that he brought the gold items openly without concealment; that in the order-in-original, there is no finding or allegation that there was any concealment and finally requested to set aside the OIO dated 08.01.2021 and order to permit to re-export with lesser redemption fine and penalty and also requested to set aside the appeal filed by the department to enhance penalty imposed. The Commissioner (Appeals) vide Order-in-Appeal No. TCP-CUS-000-APP-39&40-21 dated 02.02.2021 has rejected the appeal filed by the applicant bearing No. C24/19/2020-TRY-CUS and appeal filed by the department bearing No. C24/61/2020-TRY (CUS)(D) and upheld the order- in- original.

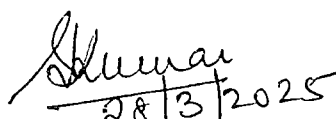
5. The instant revision application has been filed, mainly, on the grounds that order of the respondent is against law, weight of evidence and circumstances and probabilities of the case; the applicant went to Kuala Lumpur on 25.05.2015 and arrived at Trichy on 27.12.2019 and stayed in abroad about four years and seven months i.e. more than required period as per Baggage Rules,2016, hence adjudicating authority ought to have considered the same while passing the impugned order but he did not consider the same. Hence the impugned order is liable to be set aside; that there is no specific allegation that he crossed the green channel; there is no ingenious concealment and there is no dispute of ownership of gold jewellery and all are of 22 carat purity.

6. Personal hearing in the matter was held on 29.01.2025. Sh. A. Sivakumar, on the respondent side appeared for personal hearing and submitted that the Commissioner (Appeals) has clearly and cogently discussed the justification for the high quantum of penalty in para 10.02 of the OIA. He stated that the applicant did not have convertible foreign currency to pay duty as required and that his own statement Under Section 108 was an admission of his involvement. Smt. Kamalamalar Palanikumar appeared on behalf of applicant side and submitted that the applicant was an eligible passenger as he was returning after four years, that only 49 grams of gold of 22 carat purity in ornament (gold chains and ring) had been brought, yet the penalty was more than

50%, which was not justified. She sought the release of the gold at concessional rate of duty and reduction in penalty.

7. The Government has examined the matter. As per sub-section (3) of Section 129DD, ibid, a revision application shall be accompanied by a fee of Rs. 1,000/- when the amount of duty and interest demanded, fine or penalty levied by an officer of customs, in the case to which the application relates, is more than one lakh rupees. The use of word 'shall' in the said sub-section (3) makes it apparent that the requirement of fee is mandatory. It is observed that the Applicant has not paid the requisite RA fee of Rs.1,000/- despite being informed, vide this office letters dated 22.03.2021, 13.12.2024 and 01.01.2025. Therefore, the Government holds that the subject revision application is not maintainable as it is not accompanied by the requisite fee, as provided under Section 129DD (3).

8. The revision application is, accordingly, rejected as non-maintainable, without traversing the merits of the case.

  
28/3/2025  
(Shubhagata Kumar)

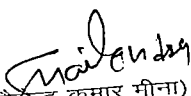
Additional Secretary to the Government of India

Sh.Shankar,  
Old No. 2/51., New No.1/512,  
Kattani Patti, P.O Sivaganga-630553.

Order No. 38/25-Cus dated 28-03-2025

Copy to:

1. The Commissioner of GST & Central Excise (Appeals), No.1, Williams Road, Cantonment, Tiruchirapalli-620001.
2. The Commissioner of Customs (P), No. 1, Williams Road, Cantonment, Tiruchirapalli-620001.
3. Smt. Kamalamalar Palanikumar, Advocate, No. 10, Sunkurma Street, Second Floor, Chennai-600001.
4. PPS to AS(RA).
5. Guard File.
6. Spare Copy.
7. Notice Board.

  
(Shailendra Kumar Meena)  
अनुभाग अधिकारी / Section Officer  
गिरा मंत्रालय (राजस्व विभाग)  
Ministry of Finance (Dept. of Rev.)  
Government of India