

REGISTERED  
SPEED POST



F.No. 375/02/B/14-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 4/9/17

ORDER NO. 03/2017-Cus DATED 4-9-2017 OF THE GOVERNMENT OF INDIA,  
PASSED BY SHRI R. P. SHARMA, ADDITIONAL SECRETARY TO THE GOVERNMENT OF  
INDIA, UNDER SECTION 129 DD OF THE CUSTOM ACT, 1962.

SUBJECT : Revision Application filed under Section 129 DD  
of the Customs Act, 1962 against the orders-in-appeal No.  
ASR-CUSTM-PVR-APP-04/14-15 dated 16.01.2014 passed by  
the Commissioner of Customs (Appeals), Chandigarh.

APPLICANT : Mrs. Bilgees Begum

RESPONDENT : Commissioner Of Customs, Chandigarh.

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## ORDER

The applicant, Bilgees Begum, has filed Revision Application No. 375/02/B/14-RA dated 11.2.2014 against Order-In-Appeal No. ASR-CUSTOM-PVR-APP-04/14-15 dated 16.01.2014 passed by the Customs (Appeal) at Chandigarh-I. The brief facts leading to this application are that the applicant had imported baggage from Pakistan to India on 17/03/2011 alongwith Cigarettes & Dupattas of the value of Rs. 1,03,000/- and the same were seized by the Attari Border Customs on 17/03/2011 considering the same as importation of commercial goods. The adjudicating authority passed an order dated 17/03/2011 confiscating the goods, imposing penalty of Rs.25,000/- on the applicant and the seized goods were allowed to be redeemed on payment of fine of Rs. 55,000/-. Commissioner (Appeal), Chandigarh, rejected the applicant's appeal vide Order-In-Appeal No. 59/CUST/Ldh/2011 dated 29.04.11. The applicant filed Revision Application and the Jt. Secretary (R.A), vide his order 222/11/Customs dated 20/07/2011, allowed re-export of impugned goods within 45 days on payment of redemption fine of Rs. 25,000/- and payment of penalty of Rs. 12,500/-. On approaching the Attari Customs, on 03.11.11 the applicant was informed that the seized goods had been already disposed off. The applicant again approached the J.S(R.A) to extend the time limit of 45 days given in his order by another 30 days vide their application dated 13.12.2011 and the same was accepted. Accordingly, a direction was given by the JS(RA) to export the said goods up to 14 January 2012. Since the goods in this case had already been disposed of, the applicant approached the Attari Customs for refund of Rs. 65,500/- and interest thereon which was arrived at by deducting the Redemption Fine of Rs. 25,000/- and personal penalty of Rs. 12,500/- from the value of imported goods of Rs. 1,03,000/-. However their claim for refund was rejected by the adjudicating authority. On their appeal, the Commissioner(Appeal), Chandigarh, vide his order dated 16.01.2014 held that the applicant is eligible to claims of refund of Balance Amount, if any, calculated after adjusting the duty amount, fine, penalty and other expenses, as stipulated in sub section 2 of Section (150) of the Customs Act, 1962, from sales proceeds of impugned goods. But the applicant has not accepted the said order of the

Commissioner (Appeal) and has approached the Central Government for second time by filing the above said Revision Application mainly on the ground that she was not given any notice by the Attari Customs before disposal of her goods and as a result they should be given a refund of Rs. 65,500/- along with interest at the rate of 9%.

2. There is no dispute earlier that the J.S.(R.A), vide his order No. 222/11 dated 27/2011, had allowed the re-export of impugned goods within 45 days on payment of Redemption Fine and Penalty of Rs. 25,000/- & Rs. 12,500/- respectively, but the applicant herself for the unexplained reasons failed to avail the option of exporting the goods within the stipulated period. The applicant has simply stated that they had approached the Attari customs and were informed that the goods had been disposed of on 03.11.2011. But the applicant has not given specific date on which she had actually approached the Attari Customs. When it was informed to her by the Attari Customs that the goods were sold on 03.11.2011 itself, it is apparent that she had approached the Attari Customs on or after 03.11.2011 only. Comm(Appeals) in his order dated 16.01.2014 has also noted that the applicant had approached Attari Customs on ~~03.11.2011~~ and the same has not been rebutted by the applicant in this present revision application also. Whereas as per the JS (RA) order she should have complied his order within 45 days i.e by 4<sup>th</sup> September'2011 (20/7/2011 to 4/9/2011). But despite knowing on 03.11.2011 itself that the said goods had been sold, the applicant approached the JS(RA) to extend the time by 30 more days to re-export the goods by hiding the vital fact that these goods were no more available for re-exporting.

3. After the applicant failed to comply the condition for re-export of goods on payment of specified Redemption Fine, the goods stood confiscated on 5<sup>th</sup> September' 2011 and the ownership was vested with the Central Government. As a result the Attari Customs was having full authority to dispose of the said goods after 04.09.11 and no error is committed by them by disposing the goods on 03.11.11. The applicant has heavily relied upon Section 150 of the Customs Act to assert her agreement that a prior notice to her was required before disposal of the goods. But the applicant has conveniently overlooked the significant fact that notice to the owner is to be given u/s

150 only if the goods are to be sold prior to confiscation and not after confiscation. Since in the instant case the goods were sold after confiscation thereof, section 150 is not applicable at all. Thus the applicant's case that she was not sounded by the Customs authorities before the disposal of their goods is completely misplaced.

4. Her other argument that the JS(RA) had extended time up to 14 January, 2012 and the goods were disposed off much prior to that time is also devoid of any legality as the goods were sold much before the time was extended for the second time by the JS(RA) that too without verification of the availability of goods. Even otherwise, extension of time upto 14.1.2012 amounted to reviewing/revising earlier order of JS (RA) for which no authorizing legal provision is available in the Customs Act, 1962.

5. In light of the above discussed facts & the legal provisions, the Government finds that the above referred Revision Application filed by the applicant is not maintainable and hence it is rejected.

*(R.P. Sharma)*  
4.7.12  
(R.P.Sharma)

Additional Secretary (Revision Application)

Commissioner of Customs (PREV.)  
Customs House, C.R. Building  
The Mall  
Amritsar -143001

*Attested*  
*N. Sharma*

(NEETI SHARMA)  
SUPERINTENDENT (RA)

G.O.I. Order No. 03/17 dated 4-9-2017

Copy to:-

1. Mrs. Bilgees Begum C/o S.S. Arora Advocate, B-1/71, Safdarjung Enclave, New Delhi-110029
2. Commissioner of Customs(Appeals), Plot No.19, Sector-17, Chandigarh.
3. The Assistant Commissioner of Customs Atari Rail Atrai
4. PA to AS(Revision Application)
5. ✓ Guard File
6. Spare Copy.