

REGISTERED
SPEED POST



F.No. 375/03/B/2015-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... 15/9/17

ORDER NO. 09/2017-Cus. dated 15-9-2017 OF THE GOVERNMENT OF INDIA,
PASSED BY SHRI R. P. SHARMA, ADDITIONAL SECRETARY TO THE GOVERNMENT
OF INDIA, UNDER SECTION 129DD OF THE CUSTOMS ACT, 1962.

SUBJECT : Revision Application filed, under section 129DD of the
Customs Act, 1962 against the Order-in-Appeal No.
CC(A)Cus/137/2015 dated 23.02.2015 passed by the
Commissioner of Central Excise (Appeals) NCH New
Delhi.

APPLICANT : Mrs. Simarjeet Kaur, C/O Sangita Bhayana(Advocate)

RESPONDENT : Commissioner of Central Excise, New Delhi.

ORDER

A Revision Application no. 375/03/B/2015-RA.CX has been filed by Smt. Simarjeet Kaur, R/o House No.296, Phase 6, Mohali SAS Nagar, Punjab -160 055, (hereinafter referred to as the applicant) against Order-in-Appeal no. CC(A)Cus/37/2015 dated 23/03/2015, passed by Commissioner(Appeals) in an appeal filed before him by the applicant against Order-in-Original No.233/2014 dated 17/12/2014 issued by Additional Commissioner of Customs, IGI Airport, New Delhi.

2. Brief facts of the case are that the applicant arrived from Dubai on 05/12/2014 and opted for Green Channel where she was intercepted at the exit gate and diverted for detailed examination of her baggage during which it was found that she was carrying on her body one Gold Kara and one Gold Chain, both of 24K purity, weighing 697.495 gms and valued at Rs. 16, 91,425 /-. She admitted before the Customs officers that she knowingly chose the green channel to save customs duty and the detained goods were of 24 K purity. The applicant also requested for release of the detained goods on payment of customs duty, fine and penalty. The Additional Commissioner of Customs, IGI Airport, the original adjudicating authority, ordered absolute confiscation of the gold items under Sections 111(d), 111(j), 111(l) and 111(m) of the Customs Act, 1962. A personal penalty of Rs 2,00,000/- was also imposed on the passenger under Section 112 and Section 114 AA of the Customs act, 1962. Being aggrieved with this order the passenger preferred an appeal to the Commissioner (Appeals) who, vide his order dated 23/03/2015, allowed release of confiscated goods observing that these are non-prohibited goods and thus absolute confiscation is not warranted. The release of the gold items was allowed on payment of Redemption Fine of Rs. 7,00,000/- and the Commissioner(Appeals) observed that this fine along with penalty and customs duty would deter the passenger from future misadventures

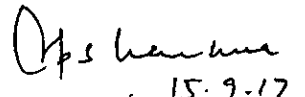
like this. Aggrieved by this Order-in-Appeal, the applicant has filed the Revision Application to the Government mainly on the grounds that she was not aware about the declaration to be made of the gold articles before custom authorities at the time of arrival and that she was falsely implicated in this case as she was wearing these items on her person and there was no question of any concealment on her part. She has also claimed that she is the sole bread earner of her family consisting of her old and ailing mother-in-law, two minor children and her husband who is not earning at all and that she had brought the gold for the marriage of her sister-in-law and the Commissioner (Appeals) has erred in imposing such heavy penalty on her given her pathetic circumstances.

3. Government has examined the applicant's submissions and the relevant records. There is no dispute that the applicant had returned from Dubai after a short visit and illegally carried the gold articles with her knowing fully well that it was not permissible. Further, the gold articles were not declared under Section 77 of the Customs act, 1962 also. As a result, these gold articles were absolutely confiscated by the original adjudicating authority and which is upheld by the Commissioner (Appeals) also. However, Commissioner (Appeals) has been fair enough to allow the applicant to redeem the goods on payment of fine of Rs. 7 lakhs which is lesser than 50% of the value of the confiscated goods. Penalty of Rs. 2 lakhs is also imposed on the applicant. From the facts stated in the Revision application itself, it is evident that the applicant had requested the seizing officer in the beginning of the case itself to release the goods on payment of customs duties, fine and penalty. Thus no different action has been initiated by the Commissioner (Appeals) against her. Imposition of Redemption fine is also not found harsh as there is a general practice to release such confiscated gold from an air passenger on payment of fine equal to 50% of the value of

illegally imported gold. The contention of the applicant that she was not aware about the declaration of such imported gold to be made before the customs officer is also not found tenable as she made such foreign visits several times in past as per record of this case and thus she was fully aware about baggage rules and provisions of Foreign Trade Development and Regulation Act, 1992. Her choosing of green channel with confidence fully demonstrates that she was aware about the above laws and their implications.

4. Considering all these relevant facts, the Government is of the considered view that the redemption fine imposed by Commissioner (Appeals) in this case is just and proper. However, considering that the applicant is a lady and there is no past record of such activity, the personal penalty of Rs. 2 lakhs is reduced to Rs. 1 lakh by taking into account her financial and family problems as narrated in the Revision Application.

5. Accordingly, the Commissioner (Appeals)'s order is modified to the extent of reducing personal penalty from Rs. 2 lakhs to Rs. 1 lakh on the applicant.


15.9.17
(R. P. Sharma)

Additional Secretary to the Government of India

Ms. Simarjeet Kaur,
W/o Shri Harkishan Singh,
R/o House No.296, Phase - 6
Mohali, SAS Nagar, Punjab

Order No. 09/2017-CUS dated 15-9-17

Copy to:-

1. The Commissioner of Customs, IGI Airport, Terminal - 3, New Delhi - 110 037
2. The Commissioner of Customs(Appeals), New Custom House, Near IGI Airport, Terminal - 3, New Delhi
3. Ms.Sangita Bhayana, Advocate, Ch. No.707, LCB-III, High Court of Delhi, New Delhi - 110003.
5. PA to AS (Revision Application)
6. Guard File
7. Spare Copy.

ATTESTED

15.9.17

(DEBJIT BANERJEE)
Sr. Technical Officer (R.A. Unit)