

REGISTERED

SPEED POST



F.No. 375/59/B/2015-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.....

Order No. 47/18-Cus dated 2-4-2018 of the Government of India passed by Shri R.P.Sharma, Principal Commissioner & Additional Secretary to the Government of India, under section 129DD of the Custom Act, 1962.

Subject : Revision Application filed, under section 129 DD of the Customs Act 1962 against the Order-in-Appeal No.CC(A)Cus/ICD/Air/1167/2015 dated 27.08.2015 passed by the Commissioner of Customs (Appeals), New Custom House, New Delhi

Applicant : Mr. Mohammad Rizwan, Dadheru, Muzaffar Nagar

Respondent : Commissioner of Customs, New Delhi

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**ORDER**

A Revision Application No. 375/59/B/2015-RA dated 01.09.15 has been filed by Shri Mohammad Rizwan, Dadheru, Muzaffar Nagar (hereinafter referred to as the applicant) against the Order-in-Appeal No.CC(A)Cus/ICD/Air/1167/2015 dated 27.08.2015, issued by the Commissioner of Customs (Appeals), New Delhi, whereby the applicant has been allowed to redeem the confiscated gold on payment of redemption fine of Rs.6,50,000/- and penalties of Rs.1,00,000/-+ Rs 50,000/-.

2. The revision application is filed mainly on the ground that the applicant had brought the gold for self-use only from Riyadh, without any concealment and, therefore, the RF of Rs.6,50,000/-, personal penalty of Rs.2,75,000/- and Rs 50,000/- against the value of Rs.13,74,620/- of gold are very high. A personal hearing was held in this case on 07.03.2018 and Smt. Harsimran Kaur, Advocate, appeared on behalf of the applicant. Smt. Kaur reiterated the ground of revision already pleaded in their application and requested for reduction of redemption fine and the personal penalty. However, Shri Sanjay Kumar, Air Customs Officer, appearing on behalf of respondent, contested the revision application for the reason discussed in the Order-In-Appeal.

3. From the revision application it is evident that the applicant does not dispute the Commissioner (Appeals)'s order regarding confiscation of gold which were brought by him illegally from Riyadh in violation of Customs Act and the Foreign Trade (Development and Regulation) Act 1992 and his request is limited to a point that the redemption fine and penalty should be reduced.

4. As regards redemption fine and penalty imposed by the Commissioner (Appeals) in his order, the applicant has not advanced any convincing reason for reduction of fine and penalty and it is merely stated that redemption fine should not be more than the margin of profit. However, the government does not agree with this contention as the redemption fine is in lieu of the value of confiscated goods

which is vested with government on confiscation of goods and, therefore, value of the confiscated goods is relevant for determination of redemption fine and not the margin of profit. If the above argument of the applicant is accepted, there will not be any redemption fine on confiscated goods if these were illegally imported without having any profit margin which is manifestly absurd. But the government finds that penalty of Rs. 50,000/- imposed on the applicant under Section 114 AA of the Customs Act, 1962, is not maintainable as revenue has not been able to make any case against the applicant that he had made or signed any declaration, statement or document which is false or incorrect. Instead the department's case against the applicant is that he had not declared the imported goods to the customs authorities at all and for this a penalty of Rs. 1,00,000/- has already been imposed under section 112(a) of the Customs Act.

5. In view of the above discussion, the order in appeal is modified and the revision application is allowed to the above extent.

(R.P.Sharma)

Additional Secretary to the Government of India

Mr. Mohmmad Rizwan,  
R/o H. No.1370, Village Dadheru Kalan  
Muzaffer Nager (UP)

Order No. 47/18-Cus dated 2-4-2018

Copy to:

1. Commissioner of Customs, IGI Airport Terminal-3, New Delhi-110037
2. Commissioner of Customs (Appeals), New Custom House, Near IGI Airport, New Delhi
3. Additional Commissioner of Customs, IGI Airport, New Custom House, New Delhi
4. Smt Harsimaran Kaur, Advocate, S.S.Arora & Associates, B.1/71, Safdarjung Enclave, New Delhi-110029
5. PA to AS(RA)
- ✓ 6. Guard File.
7. Spare Copy.

ATTESTED

*Nam*  
2/4/18  
(Nirmala Devi)  
Section Officer (RA)