

SPEED POST



F.No. 375/78/B/2019-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...4.1.22

Order No. 04/22-Cus dated 04-01-2022 of the Government of India passed by Sh. Sandeep Prakash, 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/D-I/Air/372/2019 dated 11.10.2019 passed by the Commissioner of Customs (Appeals), New Customs House, New Delhi.

Applicant : Sh. Mohd. Sultan, Delhi

Respondent : The Commissioner of Customs, IGI Airport, New Delhi.

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ORDER

A Revision Application No. 375/78/B/2019-RA dated 16.12.2019 has been filed by Sh. Mohd. Sultan, Delhi (hereinafter referred to as the Applicant) against the Order-in-Appeal No. CC(A)/CUS/D-I/Airport/372/2019-20 dated 11.10.2019, passed by the Commissioner of Customs (Appeals), New Delhi, vide which the appeal filed by the Applicant herein against the Order-in-Original No.161/DAS/Adjn/2019 dated 29.05.2019, passed by the Additional Commissioner of Customs, IGI Airport, New Delhi, has been rejected on the grounds that the Applicant herein did not make the mandatory pre-deposit of 7.5%, as per Section 129E of the Customs Act, 1962.

2. Brief facts of the case are that the Applicant along with two other passengers, all scheduled to depart to Dubai, on 18.04.2018, were intercepted by the officers of Directorate of Revenue Intelligence on specific information that they were carrying foreign currency. On examination/personal search, assorted foreign currency, i.e., 1,37,000 UAE Dirhams equivalent to Rs. 23,49,550/- was recovered from the Applicant. Applicant in his statement dated 19.04.2018, tendered under Section 108 of the Customs Act, 1962, admitted the recovery of foreign currency from his hand bag but stated that the foreign currency did not belong to him; and that he did not have any evidence showing licit possession of the same. The original authority ordered absolute confiscation of the foreign currency under Section 113 (d) & 113 (e) of the Act ibid and also imposed a penalty of Rs. 4,50,000/- on the Applicant herein.

3. The revision application has been filed, mainly, on the grounds that the appeal was rejected solely on the technical ground of not making the mandatory pre deposit of 7.5% of the penalty amount and is thus against the principles of natural justice.

4. Personal hearing, in virtual mode, was held on 04.01.2022. Ms. Sangita Bhayana, Advocate appeared for the Applicant and submitted that the Applicant is now willing to make the pre-deposit. He may, therefore, be given 02 weeks time to do so whereafter the matter may be remanded to the Commissioner (Appeals). Sh. Charan Singh, Superintendent, appeared for the Respondent department, supported the order of Commissioner (Appeals).

4. The Government has examined the matter carefully. The Commissioner (Appeals) has rejected the appeal on the ground that the Applicant did not make mandatory pre-deposit of 7.5%, as required in terms of Section 129E of the Customs Act, 1962. At this stage, it is not disputed that being a mandatory condition the pre-deposit ought to have been made for the appeal to have been entertained by the Commissioner (Appeals). Only plea is that the matter should, now, be remanded back to Commissioner (Appeals) for decision on merits subject to the pre-deposit being made within two weeks. It is observed that the order of Commissioner (Appeals) is more than 2 years and 2 months old and the Applicant was having sufficient time to make the pre-deposit, but the same was not done. Even at this late stage, the Applicant has not sought a remand after making the pre-deposit but has made pre-deposit conditional to the remand order being passed.

There is no explanation as to why the Applicant could not approach with this plea after making the pre-deposit when he is admittedly, now, in a position to do so. In the circumstances, the request made by Applicant does not appear to be bonafide and, hence, does not merit consideration.

6. In view of the above, the revision application is rejected.



(Sandeep Prakash)

Additional Secretary to the Government of India

Sh. Mohd. Sultan,
R/o 2795, 2nd Floor, Gali Garharyha,
Kucha Chellan, Delhi – 110002.

Order No. DU/22-Cus dated 04-01-2022

Copy to:

1. The Commissioner of Customs, IGI Airport, Terminal – 3, New Delhi - 110037.
2. The Commissioner of Customs (Appeals), New Delhi, New Custom House, Near IGI Airport, New Delhi – 110037.
3. Ms. Sangita Bhayana, Advocate, Chamber No. 707, LCB-III, Delhi High Court, New Delhi – 110003.
4. PA to AS(RA).
5. Guard File.
6. Spare Copy.
- 7.

ATTESTED



(Lakshmi Raghavan)
अनुभाग अधिकारी / Section Officer
वित्त मंत्रालय (राजस्व विभाग)
Ministry of Finance (Deptt. of Rev.)
भारत सरकार / Govt. of India
नई दिल्ली / New Delhi