

SPEED POST



F. No. 373/219/B/2018-RA
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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. 08/5/23

Order No. 175-176/23-Cus dated 08-05-2023 of the Government of India passed by Shri Sandeep Prakash, Additional Secretary to the Government of India, under section 129DD of the Custom Act, 1962.

Subject : Revision Applications, filed under Section 129 DD of the Customs Act 1962, against the Order-in-Appeal No. 122 & 123/2018-TRY (CUS) dated 31.07.2018, passed by the Commissioner of CGST & Central Excise (Appeals), Tiruchirapalli.

Applicants :1. Sh. Krishnan, Chennai
2. Sh. Rahamathullah, Chennai

Respondent : The Commissioner of Customs (Preventive), Tiruchirapalli

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ORDER

Revision Applications, bearing Nos. 373/219/B/2018-RA & 373/220/B/2018-RA both dated 13.08.2018, have been filed by Sh. Krishnan, Chennai & Sh. Rahamathullah, Chennai (hereinafter referred to as the Applicant-1 & Applicant-2, respectively), against the Orders-in-Appeal Nos. 122 & 123/2018-TRY (CUS) dated 31.07.2018, passed by the Commissioner of CGST & Central Excise (Appeals), Tiruchirapalli. The Commissioner (Appeals) has upheld the Order-in-Original passed by the Joint Commissioner of Customs, (Preventive), Tiruchirapalli, bearing no. TCP-CUS-PRV-JTC-040-17 dated 08.09.2017, ordering confiscation of assorted Cameras, Camera accessories, Rolex Watch & Cell Phone, collectively valued at Rs. 24,03,500/-, recovered from Applicant-1 & Cell phones, lens, memory chips & Rolex Watch, collectively valued at Rs. 21,56,500/-, recovered from Applicant-2, under Sections 111(d) & (l) of the Customs Act, 1962. However, the Applicants were allowed to redeem the offending goods on payment of redemption fine of Rs. 2,53,000/- & Rs. 2,42,000/-, respectively. Besides, penalties of Rs. 2,50,000/- each were imposed on both the Applicants, under Section 112 (a) & (b) of the Act *ibid*.

2. Brief facts of the case are that officers of the Directorate of Revenue Intelligence (DRI), Trichy Regional Unit, based on a specific information, intercepted both the Applicants, on 08.10.2016, when they attempted to exit through Customs Green Channel gate at Trichy airport, upon their arrival from Kuala Lumpur. Both the Applicants had not declared any dutiable goods and not paid any Customs duty. On being questioned by the DRI officers whether they had brought any dutiable goods with them, they replied in negative. Upon the examination of their baggage, high-valued goods such as Camera, Cell phones, Lens etc. were found. Upon the search of their persons, 02 new Rolex Watches were found along with the 'guarantee cards'. Upon being enquired about the purchase of the watches, the receipt and source of money for their purchases, the applicants replied that they purchased them abroad during their visit but they were not genuine Rolex Watches. Upon being further enquired why they did not declare the said items, they replied that they wanted to clear them without payment of Customs duty. Applicant-1 & 2, in their statements dated 09.10.2016, recorded under Section 108 of the Customs Act, 1962, *inter-alia*, admitted that they had smuggled the subject goods to earn more profit.

The case was adjudicated by the original authority, vide aforementioned Order-in-Original dated 08.09.2017. Aggrieved, the Applicants filed appeals before the Commissioner (Appeals), which were rejected as mentioned above.

3. The revision applications have been filed by Applicant-1 & 2, mainly, on the grounds that ownership of the goods is not disputed and there is no ingenious concealment; that the Applicants bought the Rolex watches for their own use; that they should have been allowed permissible allowance as per Section 79 of the Customs Act, 1962; and that the value of the goods had not been assessed properly.

4. Personal hearing in the matter was fixed on 05.04.2023, which was adjourned to 28.04.2023, at the request of the Advocate of the Applicants. No one appeared for the hearing on 28.04.2023. Hence, last and final opportunity was granted on 08.05.2023. No one appeared for either side on 08.05.2023 as well and no request for adjournment has been received. Since sufficient opportunities have been granted, matter is taken up for disposal based on records.

5. The Government has carefully 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 Applicants have paid a RA fee of only Rs. 200/- each even though penalty involved, in the subject cases, is in excess of Rs. 1,00,000/-. The Applicants have failed to pay the balance amount of Rs. 800/- each despite being repeatedly advised, vide letters dated 23.03.2023, 12.04.2023 & 01.05.2023. In response to the letter dated 23.03.2023, the *Ld.* Advocate for the Applicants, vide letter dated 05.04.2023, requested for some time to pay the balance amount due to bank holidays at that time. However, the balance fee has not been paid till date. The revision applications were filed about five years ago but the requisite fee has not been paid, despite repeated advise. Therefore, the Government holds that the subject revision applications are not

maintainable as these are not accompanied by the requisite fee, as provided under Section 129DD (3).

6. The revision applications are, accordingly, rejected as non-maintainable, without traversing the merits of the respective cases.



(Sandeep Prakash)

Additional Secretary to the Government of India

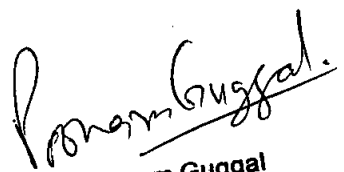
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Order No. 17S-176/23-Cus dated 08-05-2023

Copy to:

1. The Commissioner of Customs & 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. P. Kamalamalar, Advocate, No. 10, Sunkrama Street, 2nd Floor, Chennai-600001.
4. PPS to AS(RA)
5. Guard File
6. Spare Copy
7. Notice Board

ATTESTED



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