

'SPEED POST'



F. No. 372/02-03/B/2021-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.. 07/03/22

Order No. 72-73/2022-Cus dated 07-03-2022 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. 28/CUS(A)/GHY/2020 dated 17.11.2020 passed by the Commissioner (Appeals), CGST, Central Excise & Customs, Guwahati.

Applicant : 1. Sh. Bal Kishan Jaria, Kolkata.
2. Sh. Madan Gopal, Nagaur.

Respondent : The Commissioner of Customs (Preventive), Shillong.

ORDER

Two Revision Applications, bearing nos. 372/02/B/2021-RA & 372/03/B/2021-RA both dated 23.02.2021, have been filed by Sh. Bal Kishan Jaria, Kolkata (hereinafter referred to as the Applicant-1) & Sh. Madan Gopal, Nagaur (hereinafter referred to as the Applicant-2) against the Order-in-Appeal No. 28/CUS(A)/GHY/2020 dated 17.11.2020 passed by the Commissioner (Appeals), CGST, Central Excise & Customs, Guwahati. The Commissioner (Appeals) has, vide the impugned Order-in-Appeal, maintained the Order-in-Original No. COM/CUS/ADDL.COMMR/99/2019 dated 18.10.2019, passed by the Additional Commissioner of Customs (Preventive), N.E.R., Shillong.

2. Briefly stated, the Applicants herein were intercepted at Imphal Airport on 12.09.2018 while boarding a Indigo Flight from Imphal to Kolkata. On X-Ray screening of their baggage, 04 gold pieces, totally weighing 664.0 gms and valued at Rs. 20,37,152/-, were recovered. The gold pieces of foreign origin were ordered to be absolutely confiscated under Section 111(b) & (d) of the Customs Act, 1962. Penalties of Rs. 1,00,000/- each were also imposed on the Applicants herein under Section 112(b) of the Act, *ibid*. The appeals filed by the Applicants herein have been rejected by the Commissioner (Appeals), vide the impugned Order-in-Appeal.

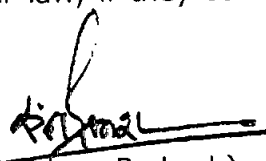
3. The revision applications have been filed, mainly, on the grounds that the gold pieces were not concealed; that the Customs officers have failed to prove that the gold is of foreign origin and, hence, the burden of proof lies on the department; that the statements of the Applicants were recorded under duress and coercion; and that quantum of penalty imposed is highly excessive.

4. Personal hearing, in virtual mode, was fixed on 02.02.2022, 16.02.2022 & 04.03.2022. None appeared for the Applicants on any of the dates fixed. Sh. Tarun Reddy, Deputy Commissioner appeared for the Respondent department in the hearing held on 04.03.2022 and supported the orders of the lower authorities. After the personal hearings scheduled at 10:55 AM and 11:20 AM, on 04.03.2022, were concluded, a letter dated 04.03.2022 was received from Sh. Amit Kumar Attri, Advocate for the Applicants, via e-mail (12:03 PM), stating that he had telephonically requested an officer in this office to re-fix the personal hearings at 12:30 PM on 04.03.2021 instead of "10:45 AM" and "11:20 AM" originally scheduled. As per the Office Note placed on record, it is brought out that Sh. Attri had called the officer at 10:18 AM and requested for rescheduling but he was informed that hearings are already pre-scheduled at the relevant time and, hence, rescheduling is not possible

as requested. The learned Advocate thereafter did not appear for hearing, despite being so advised. As such, sufficient opportunities having been granted, the matter is taken up for disposal based on written records.

5. The Government has carefully examined the matter. It is observed that the case relates to seizure of gold pieces from the baggage of the Applicants in a domestic flight. There is no allegation apparent from the records that the gold pieces were allegedly smuggled in the baggage of any international passenger. In these facts and circumstances, the present case does not relate to "(a) *any goods imported or exported as baggage*", as per first proviso to Section 129A of the Customs Act, 1962. In view of this, the subject revision applications are not maintainable under Section 129DD of the Act, *ibid*.

6. The revision applications are rejected as non-maintainable. The Applicants are at liberty to approach the appropriate legal forum for relief, as per law, if they so desire.


(Sandeep Prakash)

Additional Secretary to the Government of India

1. Sh. Bal Kishan Jaria,
S/o Sh. Budhmal Jaria,
Block No. 2, Flat No. 2F, Prasad Exotica,
71/3, Canal Circular Road, Phoolbagan,
Near Swabhumi, Heritage, Kankurgachi, Kolkata – 700054.
2. Sh. Madan Gopal,
S/o Sh. Govind Lal Soni,
Near Balaji Mandir, Behind SBI, New Colony,
Old Ward No. 7, Kuchaman City, Distt. Nagaur,
Rajasthan – 341 509.

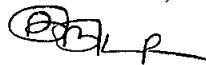
Order No. 72-73/2022-Cus dated 07-03-2022

Copy to:

1. The Commissioner of Customs (Preventive), 110, Mahatma Gandhi Road,
NER, Shillong, Meghalaya – 793001.

2. The Commissioner of Customs (Appeals), CGST, Central Excise & Customs, 3rd Floor, GST Bhawan, Kedar Road, Machkhowa, Guwahati – 781001.
3. Sh. Amit Attri, Advocate, Chamber No. 952, Patiala House Court, New Delhi – 110001.
4. PA to AS (RA).
5. Guard File.
- ✓ 6. Spare Copy.

ATTESTED



(लक्ष्मी राघवन)
(Lakshmi Raghavan)
अनुभाग अधिकारी / Section Officer
वित्त मंत्रालय (राजस्व विभाग)
Ministry of Finance (Deptt. of Rev.)
भारत सरकार / Govt. of India
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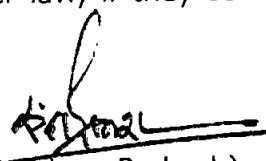
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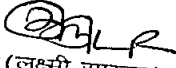
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