



GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE)

8th Floor, World Trade Centre, Centre - I, Cuffe Parade,

Mumbai-400 005

F.No. 373/99/B/16-RA

732

Date of Issue

28.01.2021

01/2021-
ORDER NO. CUS (SZ)/ASRA/MUMBAI DATED 01.01.2021 OF THE GOVERNMENT OF INDIA PASSED BY SHRI SHRAWAN KUMAR PRINCIPAL COMMISSIONER & EX-OFFICIO ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA, UNDER SECTION 129DD OF THE CUSTOMS ACT, 1962.

Applicant : Shri Faizal Uro Parambil

Respondent : Commissioner of Customs, Cochin International Airport.

Subject : Revision Application filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal COC-CUSTM-000-APP-176-15-16 dated 15.09.2015 passed by the Commissioner of Customs (Appeals), Cochin.

ORDER

This revision application has been filed by Shri Faizal Uro Parambil (herein after referred to as the Applicant) against the Order in appeal No. COC-CUSTOM-000-APP-176-15-16 dated 15.09.2015 passed by the Commissioner of Customs (Appeals), Cochin.

2. On 10.05.2014 the Applicant arrived at the Cochin International Airport, he was intercepted at the exit gate. Examination of his baggage resulted in the recovery of five gold bars totally weighing 583 grams valued at 17,54,830/- (Rupees Seventeen lakhs Fifty four thousand and Eight hundred and Thirty)ingeniously concealed in a Stapler and a hole punching machine.

3. After due process of the law vide Order-In-Original No. 43/2014 dated 14.10.2014 the Original Adjudicating Authority ordered absolute confiscation of the gold under Section 111 (d) (i) (l) and (m) of the Customs Act, 1962 and imposed penalty of Rs. 1,75,000/- on the Applicant under Section 112 (a) of the Customs Act,1962 on the Applicant.

4. Aggrieved by the said order, the Applicant, filed appeal before the Commissioner (Appeals) who vide Order-In-Appeal No. COC-CUSTOM-000-APP-176-15-16 dated 15.09.2015 rejected the appeal of the Applicant.

5. Aggrieved with the above order the Applicant, has filed this revision application interalia on the grounds that;

5.1 The order of the appellate authority is improper and therefore liable to be set aside; The Commissioner appeals did not advert to the infirmities and short comings of the investigations and imposed a heavy fine; The innocence of the revision applicant is revealed in the relied upon documents; The Applicant was not aware of the gold concealed in the stapler and punching machine; The absence of any remuneration to the Applicant in the instant case is a pointer to the innocence of the revision applicant; The person who had handed over the stapler and punching machine to the applicant had also not divulged the concealment; The Applicant had divulged all information and mobile numbers of the actual culprits behind

the smuggling, but no investigation was conducted to book the actual smugglers; The actions and omissions should have been viewed with suspicion by the Commissioner (Appeals); The penalty imposed is highly excessive and disproportionate to the role played and gravity of offence and hence liable to be reduced.

6. Personal hearings were scheduled on 13.11.2018, 03.10.2019 and 07.11.2019 and again online on 22.12.2020. Nobody attended the hearing on behalf of the Respondent. Shri M. Zahir, Advocate for the Applicant in the case appeared online and submitted that the packets were given to his client by some one and he carried it in good faith and therefore no penalty is liable to be imposed.

7. Government has gone through the facts of the case, it is observed that the gold recovered from the baggage brought by the Applicant was ingeniously concealed in the stapler and punching machine. The concealment was planned so as to avoid detection and smuggle the gold into India. The applicant has pleaded that he is a victim of a smuggling racket and he is not the owner of the impugned gold. Hence the absolute confiscation of the gold is justified. There is no reason to dispute the Appellate order in this regard. The pleadings of the Applicant that he is a mere carrier and a victim of a smuggling racket has to be taken with a pinch of salt. It is not that a stapler and a punching machine is not available in India that it has to be sent from abroad. The fact that such items, so freely available, were required to be delivered in India, should have raised suspicions of the Applicant. The Customs officials detected the concealed gold in the stapler and the punching machine as these items were unusually heavy. The unusual difference in weight should have also alerted the Applicant. Be that as it may the Applicant in his statement during interrogation, has categorically stated that he was aware that gold was concealed in the package, but was not aware of its quantity. His contention that he did not discuss remuneration for carrying the package because the person who gave the package was his friend is hardly of any consequence. The Government therefore finds that the Applicants pleadings that he was a victim in the case is an only attempt to escape responsibility. The revision application is therefore required to be rejected.

8. The Government therefore holds that the Original Adjudicating Authority has rightly confiscated the gold absolutely and imposed a penalty. The

Government also holds that Commissioner (Appeals) has rightly upheld the order of the original adjudicating authority.

9. The Government therefore finds no reason to interfere with the impugned Order-in-Appeal. The Appellate order is upheld as legal and proper.

10. Revision Application is accordingly rejected.

Shrawan
8/1/2021

(SHRAWAN KUMAR)
Principal Commissioner & ex-officio
Additional Secretary to Government of India

ORDER No. 6\ /2021 CUS (SZ) /ASRA/

DATED 08 01.2021

To,

1. Shri Faizal Uro Parambil, Kanhirottuarakkal House, Pannipuram (PO), Koduvally (via) Kozhikodeunnam TK, Perambalur, Tamil Nadu.
2. The Commissioner of Customs, Cochin International Airport, Nedumbassery-683111.

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