

REGISTERED
SPEED POST



GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
8th Floor, World Trade Centre, Centre - I, Cuffe Parade,
Mumbai-400 005

F.No. 373/325 to 328/B/14-RA / 8306 Date of Issue 28.07.2020

ORDER NO. ¹⁰⁻¹³10-13/2020-CUS (SZ)/ASRA/MUMBAI DATED 23 2 2020 OF
THE GOVERNMENT OF INDIA PASSED BY SMT. SEEMA ARORA,
PRINCIPAL COMMISSIONER & EX-OFFICIO ADDITIONAL SECRETARY
TO THE GOVERNMENT OF INDIA, UNDER SECTION 129DD OF THE
CUSTOMS ACT, 1962.

Applicant : Shri. Mohamed Kunhamu
Shri. Kunnil Sulaiman
Shri. Arif Mohamed Kunhi
Shri. Mohuiddin Bikal

Respondent : Commissioner of Customs, Customs Preventive
Commissionerate, Cochin-18.

Subject : Revision Application filed, under Section 129DD of the
Customs Act, 1962 against the Order-in-Appeal No.
COC-CUSTOM-PRV-APP-10 to 04-14-15 Dt. 29.05.2014
dated 29.05.2014 passed by the Commissioner of
Central Excise, Customs & Service Tax (Appeals),
Cochin.



ORDER

These four revision applications has been filed by Shri. Mohamed Kunhamu, Shri. Kunnil Sulaiman, Shri. Arif Mohamed Kunhi and Shri. Mohuiddin Bikal (herein after referred to as the Applicants) against the order in appeal No. COC-CUSTM-PRV-APP-01 to 04-14-15 dated 29.05.2014 passed by the Commissioner of Central Excise, Customs & Service Tax (Appeals), Cochin. As all the four cases have been addressed vide one common Appellate order, these Revision Applications are being decided together.

2. The officers of Customs intercepted the applicants, at the Trivandrum International Airport on 21.06.2013 as they were attempting to pass through exit after opting for the green channel. Examination of each of their baggage resulted in the recovery of an identical numbers of 90 cartons (21600 nos) of "Gudang Garam" cigarettes valued at Rs.90,000/- (Rupees Ninety Thousand) in each of their baggage. The Original Adjudicating Authority vide its Order-In-Original ordered absolute confiscation of the impugned cigarettes under Section 111 (d) and (l) of the Customs Act,1962, and imposed penalty of Rs. 90,000/- (Rupees Ninety Thousand) on each of the Applicants under Section 112 (a) of the Customs Act, 1962.

3. Aggrieved by the said order, the applicants filed appeals before the Commissioner (Appeals) who vide a simultaneous order in appeal No. COC-CUSTM-PRV-APP-01 to 04-14-15 dated 29.05.2014 passed by the Commissioner of Customs (Appeals), rejected the Appeal of all the Applicants.

4. Aggrieved with the above order the Applicants, have filed this revision application interalia on the grounds that;

4.1 The Appellate order failed to appreciate the fact that such a big baggage cannot be cleared without declaration; The Appellate authority has not considered that a huge personal penalty is not just and proper; The family of the Applicants all depend on them for their livelihood; The Applicants request goods to be released on redemption



and can afford to pay only Rs.10,000/- as penalty; The said cigarettes were brought for personal use and not for commercial purposes.

4.2 The Revision Applicants humbly prayed for using discretionary power in the interest of justice and release the confiscated goods to the Applicant.

5. A personal hearings in the case were scheduled on 09.07.2018, 29.08.2019 and 01.10.2019. However neither the Applicants nor the Respondents appeared for the hearing, therefore the case is being decided exparte on merits.

FINDINGS AND ORDER

6. The facts of the case reveal that, a proper written declaration of the impugned goods was not made by the Applicants as required under Section 77 of the Customs Act, 1962 and inspite of carrying cigarettes which are restricted and hazardous. Further, none of the cigarette cartons bear the pictorial health warning as required under the Cigarettes and other Tobacco products (Prohibition of advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 read with Cigarettes and other Tobacco products (Packing and Labelling) Rules, 2008. The cigarettes brought are also in commercial quantity, thus warranting absolute confiscation of the goods.

7. In view of the above facts, the Government is of the opinion that the absolute confiscation of the goods is justified and therefore liable to be upheld. However, The Applicants are of poor means and come from an economically weak background. There is no past history of such misdemeanors. Government observes that the penalty of Rs. 90,000/- (Rupees Ninety Thousand) on the goods valued at Rs. 90,000/- (Rupees Ninety Thousand) is unjustified and requires modification. The Applicants have requested for reduction of penalty as they can afford to pay only Rs. 10,000/-. The Government therefore prefers to take a lenient view in the case.



8. The impugned Order are therefore partly modified as below. The absolute confiscation of the goods is upheld. The penalty of Rs. 90,000/- (Rupees Ninety Thousand) imposed under section 112 of the Customs Act, 1962 on each of the Applicants is reduced to Rs. 20,000/- (Rupees Twenty thousand).

9. Revision application is partly allowed on above terms.

10. So, ordered.

(SEEMA ARORA)
Principal Commissioner & ex-officio
Additional Secretary to Government of India

ORDER No. ¹⁰⁻¹³ /2020-CUS (SZ) /ASRA/
03-2-2020 .

DATED

To,

1. Shri. Mohamed Kunhamu, Anazil Manzil Meethal, Movvel PP 329/1 A, Pallikere PO, Kasargod-671 316
2. Shri. Kunnil Sulaiman, Bekal Kunnil House, Pallikere, Kasargod, Dist.
3. Shri. Arif Mohamed Kunhi, Masthigudda House, Pallikere PO, Kasargod-671 316
4. Shri. Mohuiddin Bikal, Masthigudda House, Baikal Fort PO, Pallikere Kasargod.

Copy to:

1. The Commissioner of Customs, Customs Preventive Commissionerate, Cochin-18.
2. Sr. P.S. to AS (RA), Mumbai.
3. Guard File.
4. Spare Copy.

ATTESTED

B. LOKANATHA REDDY
Deputy Commissioner (R.A.)

