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GOVERNMENT OF INDIA  
MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE)  
8<sup>th</sup> Floor, World Trade Centre, Centre - I, Cuffe Parade,  
Mumbai-400 005

F. No. 373/144/B/16-RA / 2336

Date of Issue 11/12/2018

ORDER NO. 1008/2018-CUS (SZ) / ASRA / MUMBAI DATED  
30.11.2018 OF THE GOVERNMENT OF INDIA PASSED BY SHRI  
ASHOK KUMAR MEHTA, PRINCIPAL COMMISSIONER & EX-  
OFFICIO ADDITIONAL SECRETARY TO THE GOVERNMENT OF  
INDIA, UNDER SECTION 129DD OF THE CUSTOMS ACT, 1962.

Applicant : Shri ThamizhSelvan.

Respondent : Commissioner of Customs, Trichy.

Subject : Revision Application filed, under Section 129DD  
of the Customs Act, 1962 against the Order-  
in-Appeal No. 125/2016-TRY (CUS) dated  
21.06.2016 passed by the Commissioner of  
Customs (Appeals), Trichy.



ORDER

This revision application has been filed by Shri ThamizhSelvan (herein referred to as 'the Applicant') against the Order in Appeal No 125/2016-TRY (CUS) dated 21.06.2016 passed by the Commissioner of Customs (Appeals), Trichy Commissionerate.

2. The passenger, Shri ThamizhSelvan was intercepted by the officers of Air Intelligence Unit at the Trichy Airport on his arrival by the Tiger Air Flight No. TR 2664 from Singapore on 20.09.2014. The applicant had not declared any value in Customs Declaration Form. On enquiry as to whether he possessed any dutiable goods, the applicant replied in negative. During the personal search, the officers recovered eight gold biscuits concealed in the socks and four gold biscuits concealed lower inner wear of the applicant. Thus total twelve gold biscuits were recovered from the applicant totally weighing 1200 gms. and valued at Rs. 32,34,000/- (Rupees Thirty Two Lakh Thirty Four Thousand Only). The applicant could not produce any valid permit / license / document in respect of the impugned gold biscuits. On enquiry, the applicant informed that the impugned gold biscuits were given to him by Shri Ahmed Ali, a businessman in Singapore, with instructions to hand over the same to his person who would be waiting outside Trichy Airport. He was promised a commission of Rs. 50,000/- for the same. The impugned twelve gold biscuits were seized by the Customs Officers under reasonable belief that the applicant attempted to smuggle them in India without payment of appropriate Custom Duty.

3. The Original Adjudicating Authority vide Order-In-Original No. 67/2015 (JC) dated 29.09.2015 ordered absolute confiscation of twelve gold biscuits totally weighing 1200 gms valued at Rs. 32,34,000/- under Section 111 (d), 111(i), 111(L) & 111(l) of the Customs Act, 1962. The Adjudicating Authority also imposed penalty of Rs. 4,00,000/- 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 of Customs (Appeals-2), Trichy. The appellate authority vide Order in Appeal No. 125/2016 TRY(CUS) dated 21.06.2016 upheld the order in original.



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

- 5.1 there was no concealment of gold chains. The applicant has kept the gold in his socks and inner wear for the purpose of safety to carry during travel.
- 5.2 the confiscated gold do not fall under the category of 'Prohibited Goods'.
- 5.3 the confiscated gold ought to have been allowed to be redeemed under Section 125 of the Customs Act, 1962.

6. Shri N. Manickam, Advocate on behalf of the applicant submitted vide his letter RA F. No. 373/144/B/16-RA dated 29.10.2018 that the applicants do not wish to be heard in person and requested to decide the case on merit.

7. The Government has gone through the facts of the case. The applicant was crossing the green channel; he was intercepted by the Customs Officers. The applicant had written "No Commercial Value" in the column in Customs Declaration Form. On subsequent search of the applicant resulted in recovery of impugned twelve gold biscuits totally weighing 1200 gms valued at Rs. 32,34,000/-. Since the applicant did not declare the impugned gold as required under Section 77 of the Customs Act, 1962, the confiscation of the same is justified in the instant case.

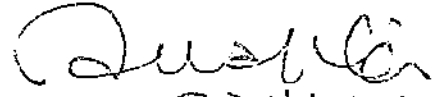
8. The Government observes that the impugned gold was handed over to the applicant by Shri Ahmed Ali, who instructed him to conceal the gold biscuits in his socks and innerwear for delivery to one of his persons waiting outside the airport. The applicant was promised a commission of Rs. 50,000/- for the same. The applicant did not claim the impugned gold nor did he retract his statement till issuance of the show cause notice. However, he retracted the same after one month of issuance of the show cause notice. This is clear after thought made to escape the penal action under law. The gold biscuits were recovered from the socks and innerwear of the applicant wrapped in black carbon paper using adhesive tape. The intention of the applicant was to smuggle gold into India illicitly for commission. The gold was concealed ingeniously to mislead the custom officers and evade the payment of custom duty. The concealment was planned so as to avoid detection and evade Customs duty and smuggle the gold into India.



9. This is not a simple case of mis-declaration. In this case the Applicant has blatantly tried to smuggle the gold into India in contravention of the provisions of the Customs, 1962. The said offence was committed in a premeditated and clever manner and clearly indicates mensrea, The Applicant was well aware that he was required to declare the gold to the authorities and if he was not intercepted before the exit, the Applicant would have taken out the gold without payment of customs duty. Further, the applicant had done this to earn commission from the owner of the gold. The frequent visits of applicant to India for short stay adduce that he could have done such illicit act in the past also. In view of above mentioned observations, the Government inclined to agree with the Order in Appeal and holds that the impugned gold has been rightly confiscated absolutely and the penalty has been rightly been upheld. Hence the impugned Revision Application is liable to be dismissed.

10. Taking into consideration the forgoing discussion, Government upholds the Order in Appeal No. 125/2016-TRY (CUS) dated 21.06.2016 and the impugned Revision Application is dismissed.

11. So, ordered.

  
20/11/18

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

ORDER No. <sup>1008</sup> /2018-CUS (SZ) /ASRA/MUMBAI DATED 30.11.2018

To,

Shri TamizhSelvan  
A, 7<sup>th</sup> Cross, Ammal Eri Road,  
Dodgapatti, Salem, Tamilnadu - 636006.

**ATTESTED**

  
11.12.18  
एस. आर. हिरुलकर  
S. R. HIRULKAR

Copy to:

1. The Commissioner of Customs, Trichy, No.1, Williams Road, Tiruchirappalli- 620 001.
2. The Commissioner of Customs (Appeals-2), No. 1, Williams Road, Cantonment, Tiruchirappalli- 620 001.
3. Shri N. Manickam, Advocate, 37, 8<sup>th</sup> Cross, Renga Nagar, K.K. Nagar, Post Tiruchirappalli- 620 021.
4. Sr. P.S. to AS (RA), Mumbai.
5. Guard File.
6. Spare Copy.

