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8th Floor, World Trade Centre, Centre - I, Cuffe Parade,
Mumbai-400 005

F.No. 373/124/B/16-RA / 2342

Date of Issue 11/12/2018

ORDER NO. 1014/2018-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 M. Suthakaran

Respondent : Commissioner of Customs, Bangalore.

Subject : Revision Application filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal No. C. Cus-I No. 171/2016 dated 14.03.2016 passed by the Commissioner of Customs (Appeals), Bangalore.

ORDER

This revision application has been filed by Shri M. Suthagaran (herein referred to as Applicant) against the Order in Appeal C. Cus-I No. 171/2016 dated 14.03.2016 passed by the Commissioner of Customs (Appeals), Bangalore.

2. Briefly stated the facts of the case are that the applicant a Sri Lankan citizen, arrived at the Bangalore Airport on 29.04.2014. He was intercepted as he was trying to pass through the green channel and examination of his baggage resulted in the recovery of one gold chain and one gold bracelet weighing 184.75 gms valued at Rs. 5,58,470/- (Rupees Five lakhs Fifty Eight thousand Four Hundred and Seventy). The gold was worn by the Applicant.

3. After due process of the law vide Order-In-Original No. 108/2014 dated 30.04.2014 the Original Adjudicating Authority ordered absolute confiscation of the gold under Section 111 (d) and e, (l), (m) of the Customs Act read with Section 3 (3) of Foreign Trade (Development & Regulation) Act and imposed penalty of Rs. 60,000/- under Section 112 (a) of the Customs Act, 1962. A penalty of Rs. 30,000/- was also imposed under Section 114AA of the Customs Act, 1962.

4. Aggrieved by the said order, the applicant filed appeal before the Commissioner (Appeals) application who vide Order-In-Appeal C. Cus-I No. 171/2016 dated 14.03.2016 rejected the appeal of the Applicant.

5. The applicant has filed this Revision Application inter alia on the following grounds that

5.1 The order of the Appellate authority is liable to be set aside for the following facts reasons and grounds; The Applicant had come to India to attend the wedding of a close relative and the gold items seized was by any standard normal gold jewelry; The gold jewelry was not hidden or secreted; Absolute confiscation was not merited in the absence of any conscious or deliberate attempt to conceal the gold; Gold is not prohibited and the Adjudicating Authority should have allowed it to be redeemed on redemption fine and penalty; The gold seized was well within permissible limits; Every case of gold import notwithstanding violation of baggage rules cannot be viewed as smuggling and against this background the absolute confiscation of the goods does not pass the law and is liable to be set aside; The non-declaration of the items was due to the bonafide belief and there



under section 114AA of the Customs Act,1962 for the same offence. The penalty imposed under section 114AA of the Customs Act,1962 therefore is required to be set aside.

9. The Government sets aside the absolute confiscation of the gold. The impugned gold weighing 184.75 gms valued at Rs. 5,58,470/- (Rupees Five lakhs Fifty Eight thousand Four Hundred and Seventy) is allowed to be redeemed for re-export on payment of redemption fine of Rs. 1,80,000/- (Rupees One lakh Eighty thousand) under section 125 of the Customs Act, 1962. Government observes that the facts of the case justify reduction in the penalty imposed. The penalty of Rs. 60,000/- (Rupees Sixty thousand) is reduced to Rs. 36,000/- (Rupees Thirty six thousand) under section 112(a) of the Customs Act,1962. The penalty of Rs. 30,000/- (Rupees Thirty thousand) imposed under section 114AA of the Customs Act,1962 is set aside.

10. Revision application is allowed on above terms.

11. So, ordered.

Ashok Kumar Mehta
20.11.18

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

ORDER No. ¹⁰¹⁴/2018-CUS (SZ) /ASRA/MUMBAI

DATED 30.11.2018

To,

Shri M. Suthakaran
C/o Pradyumna G. H., Advocates
No. 371, 8th Main Road,
Sadashivanagar,
Bangalore – 560 080.

ATTESTED

S.R. Hirulkar
11.12.18
S.R. HIRULKAR
Assistant Commissioner (R.A.)

Copy to:

1. The Commissioner of Customs, Kempegowda International Airport, Bangalore.
2. The Commissioner of Customs (Appeals), C. R. Building, Bangalore.
3. Sr. P.S. to AS (RA), Mumbai.
4. Guard File.
5. Spare Copy.

