



GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE)

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

Mumbai-400 005

F. No. 380/53/B/16-RA / 2394

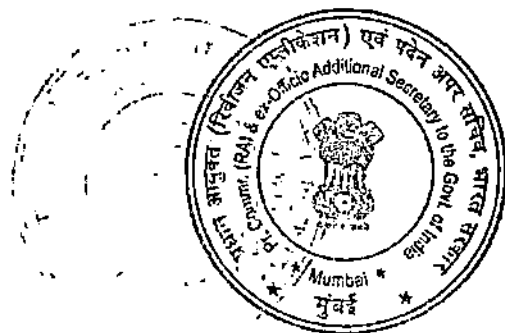
Date of Issue 14/12/2018

ORDER NO. 1057 /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 : The Principal Commissioner of Customs,
Chennai-I.

Respondent : Smt. Nagoorgani Jeenathmisha.

Subject : Revision Application filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal No. C.Cus-I No: 689/2015 dated 30.10.2015 passed by the Commissioner of Customs (Appeals-I), Chennai.



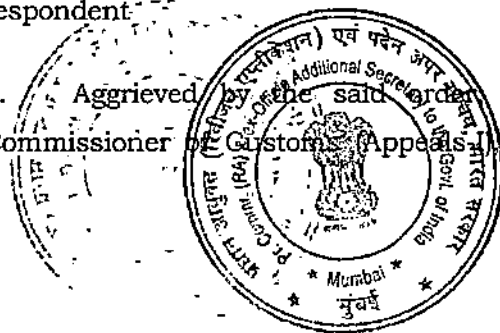
ORDER

This revision application has been filed by The Principal Commissioner of Customs, Chennai-I (herein referred to as 'the Applicant') against the Order in Appeal No C.Cus-I No: 689/2015 dated 30.10.2015 passed by the Commissioner of Customs (Appeals-I), Chennai.

2. The passenger, Smt Nagoorkani Jeenathnisha (hereinafter referred to "the respondent") was intercepted by the Customs officers at the Chennai airport on her arrival by the Flight No. IX-681 on 17.09.2014. The respondent boarded the flight at Trichy Airport on 17.09.2014 travelling to Chennai. The respondent had declared "NIL" value of gold bullion of jewellery carried by her in the Domestic Passenger Declaration form. On examination of the respondent, the Custom Officers found four number of gold bangles, one semi finished gold chain totally weighing 280 gms and valued at Rs. 7,68,040/- (Rupees Seven Lakh Sixty Eight Thousand Forty Only) on person. As the respondent travelled as a domestic passenger in an International flight and had not declared the impugned gold jewellery and attempted to pass through green channel, the same were seized by the Customs Officers. The respondent had not declared any value in Customs Declaration Form. The respondent could not produce any valid permit / license / document in respect of the impugned gold. On enquiry, the respondent told that while she was on board the flight when she went to the rear toilet, an unknown person waiting near the toilet convinced her to carry the gold and hand over the same outside the Chennai Airport for an amount of Rs. 4,000/-. The respondent was taken to the arrival hall to identify the unknown person who gave her the gold but the person was not found. The impugned gold chains and bangles were seized by the Customs Officers under reasonable belief that the respondent attempted to smuggle them in India without payment of appropriate Custom Duty.

3. The Original Adjudicating Authority vide Order-In-Original No. 138/2015-16 AIRPORT dated 18.06.2015 dropped the proceedings against the respondent.

4. Aggrieved by the said order, the applicant filed appeal before the Commissioner of Customs (Appeals-I), Chennai. The appellate authority vide



Order in Appeal No. C.Cus-I No: 689/2015 dated 30.10.2015 dismissed the appeal filed by the applicant.

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

5.1 the respondent did not declare the value of gold in customs declaration form.

5.2 the respondent had voluntarily stated that she had attempted to smuggle the gold by way of concealment.

5.3 the adjudicating authority did not discuss as to why the gold jewellery was released in spite the respondent acting as a carrier.

5.4 the respondent is not an eligible passenger to import the gold.

6. The personal hearing in the matter was fixed on 24.08.2018 and 12.09.2018. The applicant did not wish to be heard in person.

7. The Government has gone through the facts of the case. The Government finds that the respondent was a domestic passenger travelling from Trichy to Chennai through International flight. The respondent was crossing the green channel; she was intercepted by the Customs Officers. The applicant had written "No" in the column in Customs Declaration Form. On subsequent search of the respondent resulted in recovery of impugned gold jewellery totally weighing 564.600 gms valued at Rs. 7,68,040/-. The Government finds that the gold jewellery was recovered on person from the respondent and was not concealed ingeniously. Further, the respondent, being domestic passenger, there is no legal authority for such domestic passenger declaration form as discussed by the appellate authority. The respondent was travelling from Trichy to Chennai and no foreign currency was recovered from her. Also as mentioned in the order in appeal, the investigating officers could not substantiate their claim that the gold is of foreign origin. The Government observes that the respondent had retracted the statement. The unknown person who is said to have given gold to the respondent could not be traced out. The impugned gold jewellery has been claimed by the respondent. Thus the Government observes that the ownership of gold jewellery is not disputed. There is no reference of any previous offence against the respondent. Thus mere non submission of declaration cannot be held against the respondent. The Government also observes that the investigating authority could not produce any corroborative

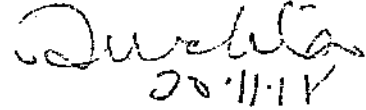


evidence to prove that the respondent is a carrier who attempted to smuggle impugned gold. As the respondent is a domestic passenger, the ratio of various case laws cited by the applicant cannot be squarely applied in the instant case and hence not discussed.

8. In view of the discussion in forgoing para, the Government finds no infirmity in the Order in Appeal and hence upholds the same.

9. Accordingly, the Revision Application is rejected.

10. So ordered.



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

ORDER No. ¹⁰⁵⁷/2018-CUS (SZ) /ASRA/MUMBAI DATED 30-11-2018

To,

1. The Principal Commissioner of Customs,
Chennai-I Commissionerate,
New Customs House, Meenambakkam,
Chennai- 600 207.
2. Smt Nagoorgani Jeenathmisha,
W/o Shri Nagoorgani,
No.22-2, Ward No.3, Patel Nagar,
1st Street, Tondiarpet,
Chennai- 600 081.

Copy to:

1. The Commissioner of Customs (Appeals-I), Chennai, 60, Rajaji Salai,
Custom House, Chennai 600 001.
2. Sr. P.S. to AS (RA), Mumbai.
- ~~3.~~ Guard File.
4. Spare Copy.

