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SPEED POST

GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(DEPARTMENT OF REVENUE)  
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Mumbai-400 005

F.No. 380/107/B/16-RA | 2409

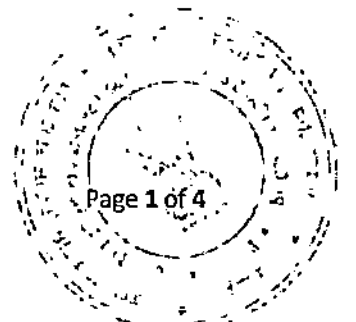
Date of Issue 19/12/2018

ORDER NO. <sup>1012</sup> /2018-CUS (SZ)/ASRA/MUMBAI DATED 26.11.2018 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 : Commissioner of Customs, Trichy.

Respondent: Shri. S. Kasirajan.

Subject : Revision Application filed, under Section 129DD of the  
Customs Act, 1962 against the Order-in-Appeal No.  
39/2016 TRY (CUS) dated 08.03.2016 passed by the  
Commissioner of Customs (Appeals), Trichy.



ORDER

This revision application has been filed by Commissioner of Customs, Trichy. (herein after referred to as the Applicant) against the order in appeal No. 39/2016 TRY (CUS) dated 08.03.2016 passed by the Commissioner of Customs (Appeals), Trichy.

2. Briefly stated the facts of the case are that the applicant arrived at the Trichy International Airport on 01.09.2015. Examination of his baggage and person resulted in the recovery of one gold chain weighing 120 grams, valued at Rs. 2,86,407/- ( Rupees Two Lakhs Eighty six thousand Four hundred and Seven ).

3. The Original Adjudicating Authority vide Order-In-Original No. 374/2015 dated 01.09.2015 ordered absolute confiscation of the gold chain. A penalty of Rs. 28,700/- was also imposed under Section 112 (a) of the Customs Act.

4. Aggrieved by the said order, the respondent filed an appeal before the Commissioner (Appeals) who vide Order-In-Appeal No. 39/2016 TRY (CUS) dated 08.03.2016 allowed redemption on payment of redemption fine of Rs. 1,10,000/- and applicable duty and allowed the appeal of the respondent, without interference in the penalty imposed.

5. Aggrieved with the above order the Applicant department have filed this revision application inter alia on the grounds that;

5.1 The gold brought by the Applicant is not his bonafide baggage and he carried the gold for someone else; the respondent did not declare the gold as required contravened the section 77 of the Customs Act, 1962 with an intention to evade customs duty and has therefore contravened the provisions of the Customs Act, 1962; These reasons make the gold prohibited; The act of not declaring the gold and his negative reply during oral interrogation reveals his intention to clear the gold without the payment of duty; The order in Appeal permitting the smuggled gold to be redeemed is not proper; The discretion under section 125 is not an absolute discretion and has to be exercised only based on the facts and circumstances of the case; These reasons make the gold prohibited; Overriding the above vital reasons the Commissioner (Appeals) has

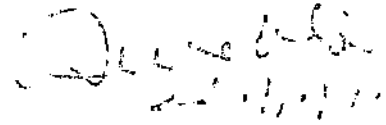




9. Government therefore upholds the Order in Appeal No. 39/2016 TRY (CUS) dated 08.03.2016 passed by the Commissioner of Customs (Appeals), Trichy as being legal and proper.

10. The Revision Application is accordingly dismissed.

11. So, ordered.



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

ORDER No. <sup>1072</sup> /2018-CUS (SZ) /ASRA/MUMBAI

DATED 26.11.2018

To,

1. The Commissioner of Customs (Airport),  
International Airport,  
Sempattu, Trichy -620 007.
2. Shri S. Kasirajan  
S/o Shri Vaithilingam  
No. 28, Senathi Kadu Street,  
Voimedu Village,  
Thagatur Post,  
Vedaran (Tk) Thiruvarur Dist.
3. The Commissioner of Customs (Appeals), Trichy.
4. Sr. P.S. to AS (RA), Mumbai.
5. Guard File.
6. Spare Copy.

