

373/423/B/14-RA
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GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
8th Floor, World Trade Centre, Centre - I, Cuffe Parade,
Mumbai-400 005

F.No. 373/423/B/14-RA | 1414

Date of Issue 23/03/2018

ORDER NO. 108/2018-CUS (SZ) / ASRA / MUMBAI/ DATED 16.03.2018 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. Abdul Waheed

Respondent : Commissioner of Customs(Airport), Chennai.

Subject : Revision Application filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal C. Cus No. 32/2014 dated 07.11.2014 passed by the Commissioner of Customs(Appeals-I) Chennai.



ORDER

This revision application has been filed by Shri. Abdul Waheed (herein after referred to as the Applicant) against the order in Appeal C. Cus No. 32/2014 dated 07.11.2014 passed by the Commissioner of Customs(Appeals-I) Chennai.

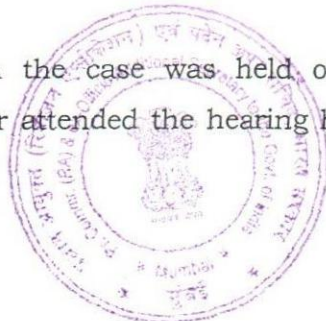
2. Briefly stated facts of the case are that the applicant, an Indian National had arrived at the International Airport Chennai 31.08.2014. The Applicant was intercepted in the Arrival hall by the officers and examination of his baggage resulted in recovery of 5 nos Sony Xperia Mobile phones valued at Rs. 60,000/- and Pioneer DVD Players valued at Rs.16,000/-. As the goods were in commercial quantity the Original Adjudicating Authority, vide his order 1079/2014 Batch C dated 31.08.2014 confiscated the all the above mentioned items under Section 111 (d) and (m) of the Customs Act,1962 and allowed redemption on the request of the Applicant on payment of Redemption fine of Rs. Rs.40,000/-. A Penalty of Rs. 8,000/- was also imposed under Section 112 (a) of the Customs Act, 1962 on the Applicant. Aggrieved by this order the Applicant filed an appeal against the order in original. The Commissioner of Customs (Appeals-I) Chennai, vide his C. Cus No. 32/2014 dated 07.11.2014 rejected the Appeal of the Applicant.

3. Aggrieved with the above order the Applicant has filed this revision application inter alia on the grounds that.

3.1 The order of the appellate authority is against law, weight of evidence and circumstances and probabilities of the case; The value of the goods is Rs. 76,000/-, the Adjudicating Authority has allowed the Applicant to redeem the goods on payment of redemption fine of Rs. 40,000/- , Rs. 27,398/- was paid as customs duty paid on the goods and personal penalty of Rs. 8,000/- was imposed. The total value of the Redemption fine, Personal penalty and Customs duty totally is almost equal to the value of the goods. the Hon'ble Supreme Court has in the case of Om Prakash vs Union of India states that the main object of the Customs Authority is to collect the duty and not to punish the person for infringement of its provisions; the redemption fine of Rs. 5,00,000/- and and penalty of Rs. 5,00,000/- is very high and unreasonable.

3.3 The Revision Applicant prayed that the Hon'ble Revision Authority may please reduce the redemption fine and penalty imposed on the Applicants.

4. A personal hearing in the case was held on 07.03.2018, the Advocate for the respondent Shri Palanikumar attended the hearing he re-iterated the submissions filed in



Revision Application and cited the decisions of GOI/Tribunals where option for re-export of gold was allowed. Nobody from the department attended the personal hearing.

5. The Government has gone through the facts of the case. The Applicant, is a frequent traveller. The fact that the goods were in commercial quantity is not disputed. Under the circumstances confiscation of the goods is justified. However, there is no allegation that the Applicant had not declared the goods and there was no ingenious concealment of the goods. The only reason for confiscation of the goods is that the goods were brought in commercial quantity. Under the circumstances Government holds that the Redemption fine and penalty imposed on the goods valued at Rs. 76,000/- (Seventy six thousand) is on the higher side and the applicant can be treated with a lenient view.

7. Taking into consideration the foregoing discussion, Government, reduces the redemption fine imposed from Rs. 40,000/- (Rupees Forty thousand) to Rs 25,000/- (Rupees Twenty five thousand). Government also observes that the facts of the case justify slight reduction in the penalty imposed. The penalty imposed on the Applicant is therefore reduced from Rs. 8,000/- (Rupees Eight thousand) to Rs 5,000/- (Rupees. Five thousand) under section 112(a) of the Customs Act,1962.

8. The impugned order stands modified to that extent. Revision application is partly allowed on above terms.

9. So, ordered.

Ashok Kumar Mehta
16.03.2018

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

ORDER No. 108/2018-CUS (SZ)/ASRA/MUMBAI

DATED 16.03.2018

To,

Shri Abdul Waheed
C/o S. Palanikumar, Advocate,
No. 10, Sunkurama Chetty Street,
Opp High court, 2nd Floor,
Chennai 600 001.

True Copy Attested

Sankarsan Munda
23/3/18
SANKARSAN MUNDA
Asstt. Commissioner of Custom & C. Ex.

Copy to:

1. The Commissioner of Customs, Anna International Airport, Chennai.
2. The Commissioner of Customs (Appeals), Custom House, Rajaji Salai Chennai.
3. Sr. P.S. to AS (RA), Mumbai.
4. Guard File.
5. Spare copy



10-11-1967