



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. 373/337/B/14-RA / 1460

Date of Issue : 03/04/2018

ORDER NO. 110/2018-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 : Smt. Latha

Respondent : Commissioner of Customs, Chennai.

Subject :Revision Application filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal No. C.Cus No. 1405/2014 dated 01.08.2014 passed by the Commissioner of Customs (Appeals) Chennai.



ORDER

This revision application has been filed by Smt. Latha (hereinafter referred to as the Applicant) against the order no 1405/2014 dated 01.08.2014 passed by the Commissioner of Customs (Appeals), Chennai.

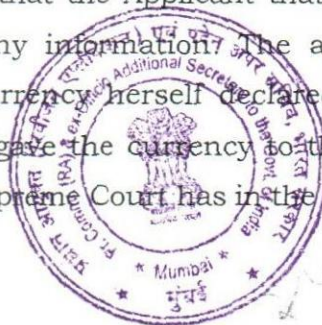
2. Briefly stated facts of the case are that the Applicant was proceeding to board a flight from Chennai on 28.02.2014. Examination of her baggage resulted in the recovery of Indian currency equivalent to Rs. 2,30,000/-. As the Applicant had carried the Indian currency beyond the permissible limit the Original Adjudicating Authority confiscated the Indian currency absolutely, under Section 111 (d), (l), (m) and (o) of the Customs Act 1962 read with section 3(3) of the Foreign Trade ( D&R) Act 1992, a penalty of Rs.23,000/- was imposed under Section 112(a) of the Customs Act. 1962.

3. Aggrieved by the order of the Original Adjudicating Authority, the Applicant filed an appeal before the Commissioner of Customs (Appeals). The Commissioner of Customs (Appeals) Chennai, vide Order in Appeal C.Cus No. 1405/2014 dated 01.08.2014 rejected the Appeal.

4. Aggrieved by the order of the Commissioner (Appeals), the Applicant has filed the Revision Application on the grounds that;

4.1 Order of the respondent is against law, weight of evidence and circumstances and probabilities of the case; she had orally declared that she possessed Indian currency, having seen the same the question of declaration does not arise; she came to India occasionally and was not aware of the rules; even assuming without admitting the act of the Applicant is only violation of the Reserve Bank Rules; she was unaware that currency could not be taken out of the country or that it was an offence; there was no contumacious conduct on the part of the appellant but the conduct of a person who was ignorant of the law, since she violated the provisions of Customs Act,1962 and FEMA1999.

4.2 It has also been pleaded that the Applicant that the detection in this case was not in pursuant to any information. The applicant when asked whether she had any foreign currency herself declared that she possessed Indian currency and voluntarily gave the currency to the officers. There was no misdeclaration; 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 option of section 125 of the Customs Act, 1962 is available even when confiscation is authorized.

4.3 The Applicant cited various assorted judgments in support of his case and prayed that the Hon'ble Revision Authority may please release the Indian currency sum of Rs. 2,30,000/- on payment of redemption fine and reduce the personal penalty sum of Rs. 23,000/- and thus render justice.

5. 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 in support of his case. Nobody from the department attended the personal hearing.

6. The Government has gone through the facts of the case. The Applicant is a frequent traveller and was carrying Indian currency beyond permissible limits. She was not having any documentary support or any specific permission for the same. She did not declare the currency and therefore confiscation of the currency is justified. However, the facts should be seen in its entirety. The Applicant was not questioned whether she was carrying currency, the facts of the case also do not allege that the Applicant was searched it therefore appears that she voluntarily disclosed that she was carrying Indian Currency. If she had not disclosed the same she could have walked off without being discovered by the Customs officers. Under this background the absolute confiscation is not justified.

7. There are numerous judgments wherein currencies have been released on payment of redemption fine and penalties. Further, the discretionary powers vested with the lower authorities under section 125(1) of the Customs Act, 1962 have to be exercised. Government also observes that there were no allegations of ingenious concealment of the currency, and neither was there a concerted attempt at smuggling the currency out of India. Government therefore holds that absolute confiscation of the Indian (Nine lac Twenty five thousand One hundred and thirty eight) currency is very harsh and not commensurate with the facts and circumstances of the case and the applicant can be treated with a lenient view. Government therefore observes that the Order in Appeal needs to be modified and the absolute confiscation of Indian currency is liable to be set aside.



8. Taking into consideration the foregoing discussion, Government, sets aside the absolute confiscation and allows redemption of the confiscated currency in lieu of fine. Hence, Government allows the impugned Indian currency of Rs. 2,30,000/- to be released on payment of redemption fine of Rs.70,000/- (Rupees. Seventy thousand). Government also observes that facts of the case justify reduction of the penalty imposed. The penalty imposed on the Applicant is therefore reduced from Rs. 23,000/- (Rupees Twenty three thousand ) to Rs. 15,000/- ( Rupees Fifteen thousand) under section 112(a) of the Customs Act,1962.

9. The impugned Order in Appeal C.Cus No. 1405/2014 dated 01.08.2014 is modified as detailed above. Revision Application is partly allowed.

10. So, ordered.

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

ORDER No. 110/2018-CUS (SZ)/ASRA/MUMBAI

DATED 16.03.2018

To,

Smt. Latha  
C/o Shri S. Palinikumar, Advocate,  
No. 10, Sukurama Street,  
Second Floor,  
Chennai -600 001.

**True Copy Attested**

*(Signature)*  
21/3/18  
SANKARSAN MUNDA  
Asstt. Commissioner of Custom & C. Ex.

Copy to:

1. The Commissioner of Customs, Chennai-I.
2. The Commissioner of Customs (Appeals-I), Chennai.
3. Sr. P.S. to AS (RA), Mumbai.
4. Guard File.
5. Spare Copy.

