



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. 373/113/B/13-RA/1056

Date of Issue 05.02.2018

ORDER NO. 11/2018-CUS(SZ)/ASRA/MUMBAI DATED 31.01.2018  
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. Rajeshwari Meiyar.

**Respondent** : Commissioner of Customs, Chennai.

**Subject** : Revision Application filed, under Section 129DD of the  
Customs Act, 1962 against the Order-in-Appeal No.  
588/2013 dated 08.04.2013 passed by the  
Commissioner of Customs (Appeals), Chennai..



ORDER

These revision applications has been filed by Smt. Rajeshwari Meiyar, hereinafter referred to as the "Applicant", against order-in-appeal no. C.Cus No. 588/2013 dated 08.04.2013 passed by the Commissioner of Customs (Appeals), Chennai.

2. Brief facts of the case are as follows; Smt. Rajeswari (the applicant), a Singapore national, brought one Canon Camera, one Sony LED TV 32" and three gold chains totally weighing 100.4 gms. The appellant being a Singapore passport holder, was not eligible to bring the gold and hence Lower Adjudicating authority while allowing the single camera and single TV both valued at Rs.2,77,210/- on payment of duty after deducting the eligible free allowance of Rs.8,000/-, has confiscated the gold valued at Rs.2,88,048/- under section 111(d), (l), (m) & (o) of the Customs Act, 1962. read with Section 3 (3) of Foreign Trade (Development & Regulation) Act, 1962, with redemption option on payment of fine of Rs.1,45,000/-. Penalty of Rs. 30,000/- under Section 112 (a) of the Customs Act, was also imposed on the applicant.

3. Aggrieved by this order the applicant filed an appeal before the Commissioner of Customs (Appeals) Chennai. The Commissioner (Appeals) in his order-in-Appeal No. 588/2013 dated 08.04.2013 set aside the order of the lower adjudicating authority confiscating absolutely the gold jewelry and allowed redemption of the same for re-export on payment redemption fine of Rs. 75,000/- and also reduced the penalty to Rs. 15,000/-.

4. Being aggrieved with the Order in Appeal of the Commissioner (Appeals) the Applicant has filed these Revision Applications interalia on the following grounds.

4.1 that she declared the contents of her baggage and had also filled the declaration card; that she was wearing the gold chains also gave a



statement that the seized goods belong to her and that the same is for personal use and family use. That she was wearing the gold for the past several months.

4.2 that she was earlier holding an Indian Passport holder earlier, the passport was surrendered when she took on Singapore citizenship and holds dual citizenship and therefore as a person of Indian origin, can avail concessional rate of duty as per Notification no. 03/2012 dated 16.01.2012.

4.3 that she was held non-eligible to import gold and the adjudicating authority has issued the order under this presumption.

4.4 That she had come back to India after a gap of 17 months and therefore can avail concessional rate of duty. She had sufficient foreign exchange to pay the duty but the facts were not properly explained to her.

4.5 that she was all along at the red channel and did not make any attempt to use the green channel.

4.6 that a married woman is required to wear a "thalli" (Thirumangaliyam) and she was wearing the same and it was not for trade or commercial use.

The Revision Applicant has cited various assorted judgments in support of her case, and prayed that the order of the Appellate Authority be set aside and reduce the redemption fine and personal penalty.

5. A personal hearing in the case was held on 04.12.2017, the Advocate for the respondent Shri Palanikumar requested for an adjournment due to a medical emergency. The personal hearing was rescheduled on 29.01.2018, which was attended by the Shri Palanikumar. The Advocate, re-iterated the submissions filed in the reply to the Show Cause Notice and cited the decisions of GOI/Tribunals in their favour and pleaded for reduction in redemption fine and penalty.

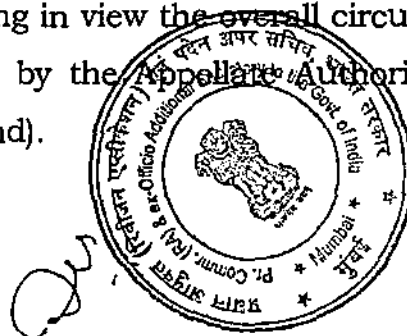
6. The Government has carefully gone through the facts of the case. The Applicant was an Indian citizen earlier, but has now surrendered her passport and



has taken Singaporean citizenship. She is therefore a person of Indian origin. Notification No. 3/2012-Customs dated 16<sup>th</sup> January, 2012 allows eligible passengers to import gold at a concessional rate. For the purposes of this notification "Eligible passengers" means a passenger of Indian origin or a passenger holding a valid passport, issued under the Passports Act, 1967 (15 of 1967), who is coming to India after a period of not less than six months of stay abroad. The Applicant therefore is eligible for concessional rate of customs duty.

7. Government also holds there was no ingenious attempt of concealing the gold jewelry, infact the Applicant was wearing the gold chain. Applicants ownership of the gold jewelry is not disputed. It is also a fact that the applicant was all along at the red channel and has filled up her declaration form. The Applicant was visiting her parents in India and being of Indian origin she was wearing a thalli as is customary in South India The gold chains and the bracelet also is not of primary gold but was in the form of personal jewelry. There is no evidence to show that it was brought for sale or brought for third person for monetary consideration. Government observes that the Applicant has already been given considerable relief by the Appellate Authority. The applicant however has pleaded for reduction of redemption fine and penalty. Government is inclined to accept the plea. In view of the above mentioned observations, the Government also holds that a lenient view can still be taken while imposing redemption fine and penalty upon the applicant.

8. Taking into consideration the foregoing discussion, the impugned Order in Appeal is liable to be modified. Accordingly, the redemption fine in lieu of confiscation under section 125 of the Customs Act, 1962 for the purpose of re-export is reduced from Rs. 75,000/- (Rupees Seventy five thousand) to Rs. 50,000/- (Rupees Fifty thousand ). Government keeping in view the overall circumstances of the case, also reduces the penalty imposed by the Appellate Authority from Rs. 15000/- to Rs.10,000/- ( Rupees Ten thousand).



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

10. So, ordered.

*Ashok Kumar Mehta*

31/1/18

(ASHOK KUMAR MEHTA)

Principal Commissioner & ex-officio  
Additional Secretary to Government of India

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

DATED 31.01.2018

To,

Smt. Rajeswari Meiyar,  
Flat No. 6, Second Floor,  
No. 5 Akbarabad first Street,  
Koddambakkam,  
Chennai- 600 024.

True Copy Attested

*Sankar San Munda*  
21/1/18

SANKARSAN MUNDA  
Asstt. Commissioner of Custom & C. Ex.

Copy to:

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

