



सत्यमेव जयते

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. 373/227 & 234/B/14-RA/1071

Date of Issue 06.02.2018

ORDER NO. 12-13/2018-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. Fathima Ifsa Akil and Shri Mohamed Akil Madarsha.

Respondent : Commissioner of Customs, Bangalore.

Subject : Revision Application filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal No. 20 & 21 dated 25.04.2014 and 128/2014 dated 22.05.2014 passed by the Commissioner of Customs (Appeals), Bangalore.







5. The Government has carefully gone through the facts of the case. This is a case of the Directorate of Intelligence on prior information. The Applicants are both foreign nationals. The Applicants were intercepted while they were exiting the green Channel of the Customs area of the Bangalore International Airport. It is a fact that the gold was not declared by the Applicants, it appears that there may have been an attempt to evade duty. However every tourist has to comply with the laws prevailing in the country visited. If a tourist is caught circumventing the law, he must face the consequences. It is a fact that the same were not declared by the passenger as required under Section 77 of the Customs Act, 1962 and under the circumstances confiscation of the gold is justified.

6. Government also holds there was no ingenious attempt of concealing the gold jewelry, in fact, the Mahazar dated 09.10.2012 recorded by the DRI officers clearly records that both the Applicants were wearing the gold jewelry seized. The Applicants have produced bills of the purchase of the gold jewelry from Colombo in Sri Lanka, bills are dated July August of the previous year, therefore the seized jewelry is not new and therefore, the Applicants ownership of the gold jewelry is not disputed. There is no evidence to show that it was brought for sale or brought for third person for monetary consideration. Government therefore holds that absolute confiscation of the seized gold harsh and not commensurate with the facts and circumstances of the case. Being foreigners, the discretion of allowing the gold for redemption under section 125 (1) of the Customs Act should have been extended by the Adjudicating Authority. There are a catena of judgments and various precedent orders passed by CESTAT/Government of India wherein seized gold has been released on appropriate redemption fine and penalty. As the applicants have requested for re-export on redemption fine and penalty. Government is inclined to accept the request. In view of the above mentioned observations, the Government also holds that a lenient view can be taken while imposing redemption fine and penalty upon the applicant.

8. In view of the above findings, Government sets aside the impugned orders in Appeal confiscating absolutely the gold jewelry and allows redemption of the same under section 125 of the Customs Act, 1962, for the purpose of re-export on payment of redemption fine in lieu of confiscation. Government allows the redemption of confiscated gold totally



weighing 721.169 gms of gold jewellery valued at Rs.22,78,375/- ( Rupees Twenty two lacs, seventy eight thousand three hundred and seventy five)for re-export on payment of Rs. 5,00,000/- (Rupees Five lacs). Government also reduces the personal penalty imposed on the Applicant from Rs. 3,00,000/- (Rupees Three lacs ) to Rs.2,00,000/- (Rupees Two lacs) under section 112(a) of the Customs Act,1962.

9. The Government allows the confiscated gold totally weighing 80.20 gms, valued at Rs.2,53,191/- (Rupees Two lacs, fifty three thousand one hundred and ninety one ) to be redeemed for re-export on redemption fine of Rs. 50,000/- (Rupees Fifty thousand). Government also reduces the personal penalty imposed on the Applicant from Rs. 50,000/- (Rupees Fifty thousand) to Rs. 30,000/- (Rupees thirty thousand ) under section 112(a) of the Customs Act,1962.

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

11. So, ordered.

(ASHOK KUMAR MEHTA)

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

ORDER No. <sup>12-13</sup> /2018-CUS (SZ)/ASRA/ Mumbai

DATED 31-01-2018

To,

Smt. Smt. Fathima Ifsa Akil,  
Shri Mohamed Akil Madarsha.,  
Flat No. 6, Second Floor,  
No. 5 Akbarabad First Street,  
Koddambakkam, Chennai- 600 024.

True Copy Attested

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.

