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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. 371/435/B/2022-RA  
371/436/B/2022-RA / 834

Date of Issue 01.02.2024

ORDER NO. 120-121 /2024-CUS (WZ) /ASRA/MUMBAI DATED 31.01.2024  
OF THE GOVERNMENT OF INDIA PASSED BY SHRI SHRAWAN KUMAR,  
PRINCIPAL COMMISSIONER & EX-OFFICIO ADDITIONAL SECRETARY TO THE  
GOVERNMENT OF INDIA, UNDER SECTION 129DD OF THE CUSTOMS ACT,  
1962.

Applicant : 1. Ms. Nareman Badrelden Abbas Abdelsalam.  
2. Ms. Safa Mustafa Mohamed Tarfa

Respondent : Pr. Commissioner of Customs, Airport-I, Mumbai

Subject : Revision Application filed, under Section 129DD of the  
Customs Act, 1962 against the Orders-in-Appeal No. Mum-  
CUSTM-Pax-App-1356&1357/2022-23 dated 13.09.2021  
passed by the Commissioner of Customs (Appeals), Mumbai-  
III.

**ORDER**

This revision application has been filed by Ms. Nareman Badrelden Abbas Abdelsalam (herein referred to as Applicant-1) and Ms. Safa Mustafa Mohamed Tarfa (herein referred to as Applicant-2) the Orders-in-Appeal No. Mum-CUSTOM-Pax-App-1356&1357/2022-23 dated 13.09.2021 passed by the Commissioner of Customs (Appeals), Mumbai-III.

2. Brief facts of the case are that on 05.11.2021, Applicant-1 and Applicant-2 were found in possession of sandal woods and sandalwood chips weighing 39.6 kgs valued at Rs.8,71,200/- and 35.2 kgs valued at Rs.7,74,400/- respectively. Both the passengers were scheduled to depart to Doha by flight no. QR 557 after a short stay of 12 days in India.

3. The case was adjudicated and the the abovementioned goods viz. sandal woods and sandalwood chips weighing 39.6 kgs valued at Rs.8,71,200/- and 35.2 kgs valued at Rs.7,74,400/- respectively, were confiscated absolutely under section 113(d) of the Customs Act, 1962. Personal Penalty of Rs.2,00,000/- each was imposed on both the Applicants under section 114(i) of the Customs Act, 1962.

4. Aggrieved by this Order, the applicant preferred an appeal before the Appellate Authority (AA) viz, Commissioner of Customs (Appeals), Mumbai-III, who vide impugned Order-in-Appeal rejected the appeal and upheld the OIO.

5. Aggrieved with the above order, the Applicants have made an exhaustive submission of case laws and have submitted copies including their submissions made before the lower authorities etc. They have filed revision application on the following main points:

5.1 The Applicant is a Foreign National.

5.2 The Applicant has language problem and does not how to read or speak English language.

5.3 The Applicant was not aware of the Indian Customs Rules.

5.4 The said goods were purchased by the Applicant from an authorized shop in Hyderabad.

5.5 This is the first time that the Applicant exported such type of goods and no previous action has been taken against her.

5.6 The violation, if any, is out of ignorance and technical in nature.

6. Personal hearing in the case was scheduled on 04.08.2023. Shri. N.J. Heera, Advocate for the applicants appeared for personal hearing and submitted that applicants were carrying some quantity of sandalwoods. He further submitted that sandalwood was legitimately purchased and invoices were produced. He also submitted that applicants are not habitual offenders. He requested to allow redemption of goods on reasonable fine and penalty for taking the same 'back to town'.

7. The Government has gone through the facts of the case, and observes that the applicants, who were scheduled to depart to Doha on flight no. QR 557 after a brief 12-day stay in India, were caught with 39.6 kgs of sandalwood valued at Rs.8,71,200/- and 35.2 kgs of sandalwood chips valued at Rs.7,74,400/-.The Applicants claimed ignorance about the illegality of transporting these goods. They further claimed that they are foreign nationals and were unaware of legalities of the Customs Act.

8.1 Government notes that export of sandalwood in any form is strictly prohibited. However, sandalwood chips, defined as machine-finished chips crafted from cracked portions of sandalwood billets (each chip not exceeding 50 grams per piece), fall under restricted items. The export of these chips is allowed under license, subject to conditions set forth by the Directorate General of Foreign Trade (DGFT). These conditions are subject to periodic notifications by the DGFT, as outlined in Notification No. 37/2015-2020 dated 27.01.2017, which specifies the Export Policy of Sandalwood under Chapter 44-Wood and Articles of Wood; Wood Charcoal.

8.2 In Section 2(33) of the Customs Act, 1962, "Prohibited Goods" are defined as any goods subject to import or export prohibition under the Customs Act or other applicable laws. This definition excludes goods complying with permitted

conditions. Section 113 of the Customs Act addresses the "Confiscation of goods attempted to be improperly exported" and mentions "Prohibited goods," with the term "Prohibition" in Section 113(d) encompassing both complete and partial prohibitions. Additionally, Section 3(3) of the Foreign Trade (Development and Regulation) Act, 1992 categorizes goods restricted or regulated for import or export as "Prohibited Goods," even if there is no complete prohibition.

9. The applicants argued that they were unaware of Indian Customs Rules, attributing any violation to ignorance and technicalities. Government notes that the legal maxim "Ignorantia Juris Non Excusat" emphasizes that claiming unawareness of the law doesn't excuse liability after a breach. This principle aims to prevent individuals from evading responsibility by asserting ignorance of a law. Government notes that ignorance of law can't be an excuse to discharge the statutory liabilities and is of no help to the applicant in the present case.

10. Furthermore, Government finds that the Appellate Authority has thoroughly discussed all the issues in paragraphs 8 to 14, and the findings of the Appellate Authority are elaborate. Government concurs with the same.

11. In view of above, Government finds no reason to interfere with the impugned OIA and thus, upholds the same. Penalty imposed under section 112 is also commensurate with the offence committed by the Applicants.

12. The Revision Application is disposed off on the above terms.

*Shrawan Kumar*  
31/11/24  
(SHRAWAN KUMAR)

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

ORDER NO. 120-121 /2024-CUS (WZ)/ASRA/MUMBAI DATED 31.01.2024

To,

1. Ms. Safa Mustafa Mohamed Tarfa C/o. A.M. Sachwani/V.M. Advani/N.J. Heera/R.R. Shah(Advocate), High Court, Nulwala Bldg, Ground Floor, 41 Mint Road, Opp. G.P.O, Fort, Mumbai – 400 001.
2. Ms. Nareman Badrelden Abbas Abdelsalam, C/o. A.M. Sachwani/V.M. Advani/N.J. Heera/R.R. Shah(Advocate), High Court, Nulwala Bldg, Ground Floor, 41 Mint Road, Opp. G.P.O, Fort, Mumbai – 400 001.
3. Pr. Commissioner of Customs, Airport-I, Chhatrapati Shivaji International Airport, Terminal – 2, Level – II, Andheri(E), Mumbai – 400099.

Copy to:

1. The Commissioner of Custom Appeals, Mumbai-III, Awas Corporate Point(5th Floor), Makwana Lane, Behind S. M. Centre Andheri-Kurla Road, Marol, Mumbai-400059.
2. Sr. P.S. to AS (RA), Mumbai.
3. File Copy.
4. Notice Board.
5. Mr. N. J. Heera, Advocate,

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