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SPEED POST



GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE)

8th Floor, World Trade Centre, Centre - I, Cuffe Parade,

Mumbai-400 005

F.No. 380/05/B/16-RA / 5419

Date of Issue 15.09.2020

ORDER NO. 134/2020-CUS (SZ)/ASRA/MUMBAI DATED 13.08.2020 OF THE GOVERNMENT OF INDIA PASSED BY SHRI SEEMA ARORA, PRINCIPAL COMMISSIONER & EX-OFFICIO ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA, UNDER SECTION 129DD OF THE CUSTOMS ACT, 1962.

Applicant : Commissioner of Customs, Chennai.

Respondent : Shri Vijay Kumar Maramreddy

Subject : Revision Application filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal C.CUS-I No. 630/2015 dated 30.09.2015 passed by the Commissioner of Customs (Appeals), Chennai.



ORDER

This revision application has been filed by the Commissioner of Customs, Chennai. (herein referred to as Applicant department) against the order C. CUS-I No. 630/2015 dated 30.09.2015 passed by the Commissioner of Customs (Appeals), Chennai.

2. Briefly stated facts of the case are that the Officers of Customs intercepted Shri Vijay Kumar Maramreddy as he was walking through the green channel of the Anna International Airport, Chennai on 08.12.2014. Examination of his person resulted in the the recovery of two gold pieces from his pant pockets totally weighing 408 grams valued at Rs. 9,89,400/- (Rupees Nine lacs Eighty nine thousand Four hundred).

3. After due process of the law vide Order-In-Original No. 35/2015-16-AIR dated 20.05.2015 the Original Adjudicating Authority ordered confiscation of the gold under Section 111 (d) and (l) of the Customs Act, 1962 but allowed redemption of the same for re-export on payment of Rs. 4,00,000/- (Rupees four lacs) as redemption fine and imposed penalty of Rs. 90,000/- (Rupees Ninety thousand) under Section 112 (a) of the Customs Act,1962.

4. Aggrieved by this order the Applicant department filed an appeal with the Commissioner of Customs (Appeals), The Commissioner (Appeals) rejected the Appeal.

5. Aggrieved with the above order the Applicant department has filed this revision application stating that the order of the Commissioner (Appeal) is not legal nor proper for the following reasons;

5.1 The Respondent had attempted to clear the gold pieces without declaring it to the customs authorities as required under section 77 of the Customs Act,1962;; The respondent acted as a carrier when he was not the owner of the gold; In his initial statements he stated that the gold was given to him by another person and he had agreed to carry it for a monetary consideration of Rs. 10,000/- ; In spite of being ineligible to



import gold he attempted to clear it indicating that the respondent had a culpable mind to smuggle gold. ; The retraction was given by him after a gap of two months, at the time of personal hearing and is therefore inadmissible; Being ineligible to import the gold the gold in question becomes prohibited; The re-export of the goods is covered under section 80 of the Customs Act 1962, wherein it is mandatory to file a declaration for re-export.; Boards circular No. 06/2014-Cus dated 06.03.2014 wherein in para 3(iii) it has been advised to be careful to prevent misuse of the facility to bring gold by eligible persons hired by unscrupulous elements; Both the Original Adjudicating Authority and the Appellate Authority failed to appreciate the above aspects.

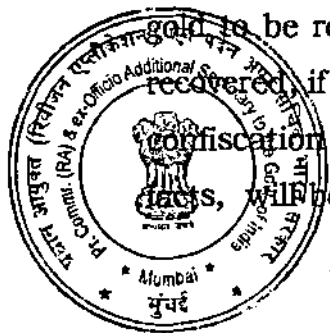
5.2 The Revision Applicant cited case laws in support of their contention and prayed that the redemption of the gold be set aside or any such order as deem fit.

6. In view of the above, personal hearings in the case were scheduled on 27.08.2018, 17.09.2018 and 26.09.2018. Nobody attended the hearing on behalf of the Applicant department or Respondent. The case is therefore being decided exparte on merits.

7. The Government has gone through the case records. It is observed that the respondent did not declare the gold as required under section 77 of the Customs, Act, 1962 and had opted for the green channel. Therefore the confiscation of the gold is justified.

8. Government further notes that in this era of liberalization Gold is a restricted item and its import is not prohibited. There are no allegations that the gold was ingeniously concealed. The respondent does not have a history of previous offences. Further, there are a number of judgments wherein the discretionary powers vested with the lower authorities under section 125(1) of the Customs Act, 1962 requires it to be exercised. The section also allows the

gold to be released to the person from whose possession the goods have been recovered, if the owner of gold is not known. Under the circumstances, absolute confiscation appealed for by the Applicant department, considering the above facts, will be an order in excess. The ownership of the gold is not disputed and




considering overall circumstances of the case original adjudicating authority has rightly allowed redemption of the gold by imposing a high redemption fine of more than 40% of the value of the gold and has also imposed a substantial penalty therefore, the Appellate authority, considering these finer aspects of the case has rightly upheld the original order. The order of the Appellate authority is proper.

9. In view of the above facts, Government holds that the Appellate authority has rightly upheld the original adjudication order. The Revision Application is devoid of merits and therefore liable to be dismissed.

10. Revision application is accordingly dismissed.

11. So, ordered.


 (SEEMA ARORA)
 Principal Commissioner & ex-officio
 Additional Secretary to Government of India

ORDER No. 34/2020-CUS (SZ) /ASRA/

DATED 3.08.2020

To,

1. The Commissioner of Customs, Chennai -I Commissionerate, New Custom House, Meenambakam, Chennai-600 027.
2. Shri Vijay Kumar Maramreddy, Singanamala, Sigareddypali, Pengalur, YSR District, AP-516127.

ATTESTED

Copy to:

1. ✓ Sr. P.S. to AS (RA), Mumbai.
2. Guard File.
3. Spare Copy.

B. LOKANATHA REDDY
Deputy Commissioner (R.A.)

