

373/12/B/14-RA  
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SPEED POST



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. 373/12/B/14-RA/

Date of Issue 04.04.2018

ORDER NO.135/2018-CUS (SZ) / ASRA / MUMBAI/ DATED 19.03.2018 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 :Shri. Mohamed Farook Abdul Khadar

Respondent :Commissioner of Customs(Airport), Chennai.

Subject :Revision Application filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal C. Cus No. 1632/2013 dated 26.11.2013 passed by the Commissioner of Customs(Appeals) Chennai.



ORDER

This revision application has been filed by Shri. Mohamed Farook Abdul Khadar (herein after referred to as the Applicant) against the order in Appeal C. Cus No. 1632/2013 dated 26.11.2013 passed by the Commissioner of Customs(Appeals) Chennai.

2. Briefly stated facts of the case are that the applicant, an Indian National had arrived at the International Airport Chennai 12.08.2012. The Applicant was intercepted in the Arrival hall by the officers and examination of his baggage resulted in recovery of 6 nos Apple Macbook pro 13"LED Notebook, 30 nos Sony Xperia smart phones with accessories and one Panasonic Memory card camera recorder totally valued at Rs. 12,50,000/-. The Applicant was arrested and subsequently released on bail. In followup his house was also searched however nothing incriminating was recovered. As the goods were in commercial quantity the Original Adjudicating Authority, vide his order in original no. 211/2013 AIR dated 09.03. 2013 confiscated the goods under section 111 (l) and (m) of the Customs Act,1962 and allowed re-export on the request of the Applicant on payment of Redemption fine of Rs.6,25,000/-. A Penalty of Rs. 1,25,000/- was also imposed under Section 112 (a) of the Customs Act, 1962 on the Applicant. Aggrieved by this order the Applicant filed an appeal against the order in original. The Commissioner of Customs (Appeals-I) Chennai, vide his C. Cus No. 1632/2013 dated 26.11.2013 rejected the Appeal of the Applicant.

3. Aggrieved with the above order the Applicant has filed this revision application interalia on the grounds that.

3.1 The order of the appellate authority is against law, weight of evidence and circumstances and probabilities of the case; There is no specific allegation that the Applicant tried to exit or was moving towards the Green Channel; The goods are of a lesser value, however they are assessed at higher value. The adjudication authority has relied on internet prices for valuing the goods and this valuation is against the Hon'ble Supreme Court order in the case of M/s

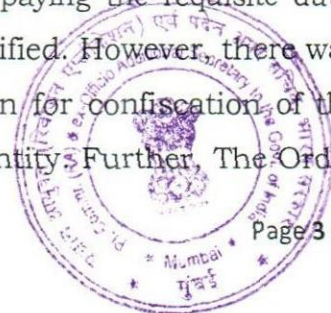
Aggrawal Distributors P. Ltd. vs Commissioner of Customs, New Delhi reported in 2000 (117) ELT 49(Tribunal);

3.2 The Applicant also pleaded that even though he was ready to make a proper declaration his plea was not considered; the Adjudicating Authority has allowed the Applicant to redeem the goods on payment of redemption fine of Rs. 6,25,000/- which is 50% of the value of the goods, the personal penalty of Rs. 1,25,000/- imposed is 10% which is high and unreasonable; The total value of the Redemption fine, Personal penalty and Customs duty totally is much more than the value of the goods. 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 redemption fine and penalty is very high and unreasonable, and hence the same needs to be reduced substantially and reasonably.

3.3 The Revision Applicant cited various assorted judgments in support of his case and prayed that the Hon'ble Revision Authority may be pleased to reduce the redemption fine and penalty imposed on the Applicants.

4. 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 where option for re-export of gold was allowed. Nobody from the department attended the personal hearing.

5. The Government has gone through the facts of the case. The fact that the goods brought were in commercial quantity is not disputed. A written declaration of goods was not made by the Applicant as required under Section 77 of the Customs Act, 1962, neither did he reveal the existence of the goods when questioned by the officers. Had he not been intercepted he would have gone without paying the requisite duty, Under the circumstances confiscation of the goods is justified. However, there was no ingenious concealment of the goods. The only reason for confiscation of the goods is that the goods were brought in commercial quantity. Further, The Order



in Original states that the Applicant was arrested and his residence was searched, however nothing incriminating was recovered. Government observes that the redemption fine and penalty imposed for re-export is on the higher side. The Applicant has pleaded for reduction in redemption fine and penalty and the Government is inclined to accept the plea.

7. Taking into consideration the foregoing discussion, Government, reduces the redemption fine imposed from Rs.6,25,000/- (Rupees Six lacs Twenty five thousand ) to Rs 3,00,000/- (Rupees Three lacs ). Government also observes that the facts of the case justify slight reduction in the penalty imposed. The penalty imposed on the Applicant is therefore reduced from Rs. 1,25,000/- (Rupees One lac Twenty five thousand ) to Rs. 1,00,000/- ( Rupees One lac) under section 112(a) of the Customs Act,1962.

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

9. So, ordered.

*Ashok Kumar Mehta*  
19.03.18

(ASHOK KUMAR MEHTA)

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

ORDER No.135/2018-CUS (SZ)/ASRA/MUMBAI

DATED 19.03.2018

To,

Shri Mohamed Farook Abdul Khadar

C/o S. Palanikumar, Advocate,  
No. 10, Sunkurama Chetty Street,  
Opp High court, 2<sup>nd</sup> Floor,  
Chennai 600 001.

**True Copy Attested**

*Sankarsan Munda*  
21/3/18

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

Copy to:

1. The Commissioner of Customs, Anna International Airport, Chennai.
2. The Commissioner of Customs (Appeals), Custom House, Rajaji Salai Chennai.
3. Sr. P.S. to AS (RA), Mumbai.
4. Guard File.
5. Spare copy

