



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. 373/98/B/16-RA/5345

Date of Issue 11.09.2020

ORDER NO. 135/2020-CUS (SZ)/ASRA/MUMBAI DATED 13.08.2020 OF THE GOVERNMENT OF INDIA PASSED BY SMT. SEEMA ARORA, PRINCIPAL COMMISSIONER & EX-OFFICIO ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA, UNDER SECTION 129DD OF THE CUSTOMS ACT, 1962.

Applicant : Shri Abdur Rasheed

Respondent : Commissioner of Customs, Bangalore.

Subject : Revision Application filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal No. 130/2016 dated 25.02.2016 passed by the Commissioner of Customs (Appeals), Bangalore.



ORDER

This revision application has been filed by Shri Abdur Rasheed (herein referred to as Applicant) against the Order-in-Appeal No. 130/2016 dated 25.02.2016 passed by the Commissioner of Customs (Appeals), Bangalore.

2. The Officers of DRI, Customs intercepted Shri Abdur Rasheed at the Mangalore International Airport, after completing immigration clearance on 28.12.2013 on credible information that he was smuggling large amounts of Indian Currency abroad. His baggage was taken for scrutiny and two packages recovered were found to contain Rs. 10,00,000/- (Rupees Ten Lakhs) in Indian currency.

3. The Original Adjudicating Authority vide its Order-In-Original No. 83/2014 JC dated 28.11.2014 the ordered absolute confiscation of the Indian currency under Section 113 (d) of the Customs Act,1962 read with section 11H ibid Act and section 11 of Foreign trade Development Regulation Act, 1992, read with FEMA 1999, FEMA (Exp and Imp of Currency) Regulation,2000. A penalty of Rs. 10,00,000/- ( Rupees Ten Lakhs) was also imposed under section 114 of the Customs Act,1962.

4. Aggrieved by this order the applicant filed an appeal with the Commissioner of Customs (Appeals), Commissioner (Appeals) vide his order No. 130/2016 dated 25.02.2016 rejected the appeal of the Applicant.

5. Aggrieved with the above order the Applicant, has filed this revision application inter alia on the grounds that;

The impugned order passed by the learned Commissioner (Appeals) upholding the order of the original authority is neither legal nor proper and hence liable to be set aside; The present proceedings emanate out an allegation leveled by the department that the applicant was attempting to smuggle Rs 10,00,000/- (Indian currency) without declaring the same to the Customs authorities and the said act had resulted in the contravention of law; The applicant craves leave of the Hon'ble Revisionary Authority to the submissions filed during the proceedings before the original authority. It was, inter alia, submitted by the applicant that he was a resident of UAE and was required to visit India frequently either for business purposes or personal reasons; that he had reached Mangalore International



Airport at around 10 PM on 28-12-2013 for the purpose of proceeding to Dubai; that he had voluntarily offered his baggage for screening; that after screening his baggage the Customs officials had permitted him to board the flight; that the events are clearly recorded in the CCTV installed at the Mangalore International Airport; that contrary to what was alleged he had made no efforts to conceal the Indian currency in question; that only thereafter the DRI officials had once again subjected his baggage to screening; that when enquired by DRI officers as to whether he was carrying Indian currency he had replied in the affirmative; that the amount in question was handed over to him by his brother Mr. Altaf Hussain Ruknudin Shekre; that he had also informed the DRI officials that the Indian currency in question was accounted; that the amount carried by him was partly withdrawn by from Bhatkal Urban Co-Operative Bank and his brother from Account No 641213857900 held with State Bank of Mysore; that the DRI officials had prevented him from boarding the flight and had seized the currency, along with other personal effects without giving any kind of acknowledgment; From the above it is apparent that the action of the department in seizing the currency was high handed inasmuch as the applicant no attempt to conceal the Indian currency; Be that as it may, the orders passed by the lower authorities ordering absolute confiscation of the Indian currency are totally unsustainable inasmuch as Indian currency is neither prohibited nor restricted; The applicant places reliance on the following Nitu Bhojwani Versus Commissioner of Customs, Ahmedabad reportE at 2009 (246) E.L.T 397 (Tri-Ahmd), Commissioner of Customs (Preventive) Versus Ram Avatar Singh Chouhan [2010 (262) E.L.T 446 (Tri-Del)] and Peringatil Hmza Versus Commissioner of Customs [2014 (309) E. 259 (Tri-Mumbai)].

5.2 The Revision Applicants prayed for setting aside the Order in Appeal with consequential relief or such order as may be deemed fit and proper in the facts and circumstances of the matter.

6. A personal hearing in the case were scheduled on 07.11.2019. Shri Pradyumna G. H. appeared on behalf of the Applicant and submitted that the amount was withdrawn and sought release and reduced redemption fine and penalty. No one appeared on behalf of the Respondents.

#### FINDINGS AND ORDER





7. The facts of the case reveal that, the impugned currency was recovered on the basis of specific intelligence by the officers of DRI. When the Applicant was asked whether he was carrying any currency in excess of Rs. 7,500/-, He replied in the negative. Thereafter, the search of the Applicants baggage resulted in the recovery of Indian currency of Rs. 10,00,000/- (Rupees Ten Lakhs). This reveals mensrea, the Applicant was aware that smuggling of currency abroad was an offence. In his initial statement recorded by the officers of DRI the Applicant has admitted that his plan was to convert the currency to foreign currency through agents abroad. The Applicant has also stated that he had made three foreign trips during the current year and has taken currency abroad illegally on all his foreign trips. These acts of the Applicant reveal these acts to be contumacious and with absolute contempt for law. Government also opines that such repeated offences require a strong deterrent so as to deter the Applicant from repeating such acts in future. The Applicants plea for release of the currency on redemption fine and penalty is therefore unsustainable and absolute confiscation of the currency is therefore liable to be upheld. The Government therefore holds that there is no necessity for interfering with Order of the Appellate Authority in this regard. The Revision Application is therefore required to be dismissed.

9. The Appellate order C. Cus. No. 130/2016 dated 25.02.2016 passed by the Commissioner of Customs (Appeals) is upheld as legal and proper.

10. Revision Application is accordingly dismissed.

11. So, ordered.

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

ORDER No. 35/2020-CUS (SZ) /ASRA/

DATED 13-08-2020

To,

Shri Abdur Rasheed, S/o Shri Late Mohammed Jafri, Nilovilla, Behind Municipal Park, Bunder Road, Bhatkal - 581 320.

Copy to:

1. The Commissioner of Customs, Kempegowda International Airport, Bangalore.
2. Shri Pradyamma G. H. Advocate, BVC & Co. No. 371, 1<sup>st</sup> Floor, 8<sup>th</sup> Main, Sadashy Nagar, Bangalore - 560 080.
3. Sr. P.S. to AS (RA), Mumbai.
4. Guard File.

ATTESTED

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

