

373/03/B/14-RA
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GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
8th Floor, World Trade Centre, Centre - I, Cuffe Parade,
Mumbai-400 005

F.No. 373/03/B/14-RA / 67

Date of Issue 04.04.2018

ORDER NO. 137/2018-CUS (SZ) / ASRA / MUMBAI/ DATED 23.03.2018 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. Ammu Abdulla

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. 1751/2013 dated 29.11.2013 passed by the Commissioner of Customs (Appeals) Chennai.



ORDER

This revision application has been filed by Shri. Ammu Abdulla (herein after referred to as the Applicant) against the order in Appeal C. Cus No. 1751/2013 dated 29.11.2013 passed by the Commissioner of Customs(Appeals-I) Chennai.

2. Briefly stated facts of the case are that the applicant, a Sri Lankan National had arrived at the International Airport Chennai 02.01.2013. Examination of his baggage and person resulted in the recovery a gold chain and gold bracelet totally weighing 82 gms valued at Rs. 2,36,652/- (two lacs thirty six thousand Six hundred and Fifty two) 2 (two) nos Sony Xperia Mobile phones valued at Rs. 20,000/- and one 5 ltr liquor bottle valued at Rs.3,750/-. The Original Adjudicating Authority, vide his order 4/ Batch A dated 02.01.2013 confiscated the gold items and the 2 Sony mobile phones allowing them to be redeemed on payment of Redemption fine of Rs. 1,30,000/- under Section 111 (d) and (m) of the Customs Act,1962 and allowed redemption on the request of the Applicant on payment of Redemption fine of Rs. Rs.1,30,000/-. The 5 ltr liquor bottle valued at Rs.3,750/- was confiscated absolutely. A Penalty of Rs. 20,000/- 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. 1751/2013 dated 29.11.2013 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; The Applicant submits that he had worn the gold chain and it was not concealed; He brought two cellphones for his personal use and not for commercial trade; There was no ingenious concealment, as the gold chain was worn by the Applicant and it was visible to the naked eye and was shown to the officer and having seen the same the question of declaration does not arise; his request to allow the gold for re-export



without redemption fine and penalty was not heard and the officers proceeded to detain the jewelry because it was not declared;

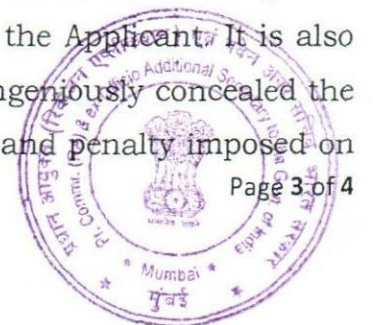
3.2 CBEC circular 9/2001 gives specific directions stating that a declaration should not be left blank, if not filled in the Officer should help the passenger to fill in the declaration card; The gold was not ingeniously concealed; Being a foreign national his request to allow the gold for re-export without redemption fine and penalty should have been heard, But the officers proceeded to detain the jewelry because it was not declared; unreasonable.

3.3 The Revision Applicant prayed that the Hon'ble Revision Authority may please show leniency and mercy and reduce the redemption fine and penalty imposed on the Applicants and thus render justice.

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 and pleaded for reduction of Redemption fine and penalty. Nobody from the department attended the personal hearing.

5. The Government has gone through the facts of the case. The Applicant is a foreign national. However every tourist has to comply with the laws prevailing in the country visited. If a tourist is caught circumventing the law, she must face the consequences. A written declaration of the gold jewelry as required under Section 77 of the Customs Act, 1962 was not made and had she not been intercepted he would have gone without paying the requisite duty, under the circumstances confiscation of the gold is justified.

6. The Government has gone through the facts of the case. The Applicant is a foreign national and a frequent traveller, and he was trying to exit through the Green Channel by evading customs duty. The Government however observes that inspite of being a frequent traveller there is no previous case against the Applicant. It is also observed that there is no allegation that the Applicant had ingeniously concealed the gold. Government therefore holds that the Redemption fine and penalty imposed on




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the gold is on the higher side and the applicant can be treated with a lenient view. The Applicant has pleaded for re-export and reduction of the Redemption fine and penalty imposed and the Government is inclined to accept the plea.

7. Taking into consideration the foregoing discussion, the government allows the Gold jewelry for re-export. Government, also reduces the redemption fine imposed on the gold jewelry totally weighing 82 gms valued at Rs. 2,36,652/- (two lacs thirty six thousand Six hundred and Fifty two) and the 2 (two) nos Sony Xperia Mobile phones valued at Rs. 20,000/- from Rs. 1,30,000/(Rupees One lac thirty thousand) to Rs 1,00,000/- (Rupees One lac). Government also observes that the facts of the case justify reduction in the penalty imposed. The penalty imposed on the Applicant is therefore reduced from Rs. 20,000/-(Rupees Twenty thousand) to Rs 15,000/- (Rupees Fifteen thousand) 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.


20.03.2018

(ASHOK KUMAR MEHTA)

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

ORDER No.137/2018-CUS (SZ)/ASRA/Mumbai

DATED 23.03.2018

True Copy Attested

To,

Shri Ammu Abdulla
C/o S. Palanikumar, Advocate,
No. 10, Sunkurama Chetty Street,
Opp High court, 2nd Floor,
Chennai 600 001.


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

