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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. 380/122/B/16-RA / 5382

Date of Issue 14.09.2020

ORDER NO. 137/2020CUS (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 Abdul Bashit Basheer Ahmed

Subject : Revision Application filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal C.CUS-I No. 124/2016 dated 29.02.2016 passed by the Commissioner of Customs (Appeals), Chennai.



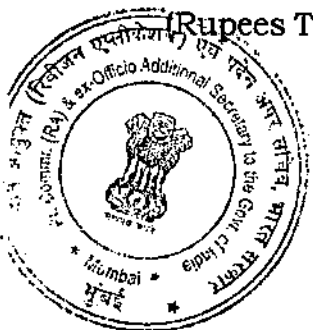
ORDER

This revision application has been filed by the Commissioner of Customs, Chennai. (herein referred to as Applicant) against the order C. CUS-I No. 124/2016 dated 29.02.2016 passed by the Commissioner of Customs (Appeals), Chennai.

2. Briefly stated facts of the case are that the Officers of Customs intercepted Shri Abdul Bashit Basheer Ahmed at the Anna International Airport, Chennai on 29.12.2015 as he tried passing through the green channel. Examination of his person resulted in the recovery of a gold chain from his under garments weighing 165 grams valued at Rs. 3,84,754/- (Rupees Three lacs Eighty four thousand Seven hundred and Fifty four).

3. After due process of the law vide Order-In-Original No. 1384/2015-Batch C dated 29.12.2015 the Original Adjudicating Authority ordered absolute confiscation of the gold under Section 111 (d) (l) and (m) of the Customs Act, 1962 and imposed penalty of Rs. 39,000/- (Rupees Thirty Nine thousand) under Section 112 (a) of the Customs Act, 1962.

4. Aggrieved by this order the Respondent filed an appeal with the Commissioner of Customs (Appeals), The Commissioner (Appeals) vide his order allowed redemption on payment of redemption fine of Rs. 1,15,000/- ((Rupees One lac Fifteen thousand) and reduced the penalty to Rs. 25,000/- (Rupees Twenty Five thousand).



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 manner of concealment and the non declaration of the gold as required under section 77 of the Customs Act,1962, inspite of being an ineligible to import gold clearly indicates that the respondent had a culpable mind to smuggle gold. ; The respondent was not having any foreign currency to pay the customs duty; The respondent acted as a carrier when he was not the owner of the gold; Being ineligible to import the gold the gold in question becomes prohibited; Boards circular No. 06/2014-Cus dated 06.03.2014 wherein in para 3(iii) it has been advised to be care ful to prevent misuse of the facility to bring gold by eligible persons hired by unscrupulous elements; Bothe the Original Adjudicating Authority and the Appellate Authority failed to appreciate the above aspects. The order of the Appellate Authority has the effect of making the smuggling of gold an attractive proposition since the passenger retains the benefit of redeeming the offending goods even when caught by the Customs which totally works against deterrence.

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 28.08.2018, 25.09.2018 and 27.11.2018. 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.

However, the ownership of the gold is not disputed. Gold is a restricted and its import is not prohibited. The gold was recovered from the



