



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. 373/347/B/14-RA/08

Date of Issue 04.04.2018

ORDER NO. 138/2018-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 Rajkumar Ramasamy

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. 1636/2013 dated 26.11.2013 passed by the Commissioner of Customs (Appeals) Chennai.



ORDER

This revision application has been filed by Shri Rajkumar Ramasamy (herein after referred to as the Applicant) against the order no C. Cus No. 1636/2013 dated 26.11.2013 passed by the Commissioner of Customs (Appeals), Chennai.

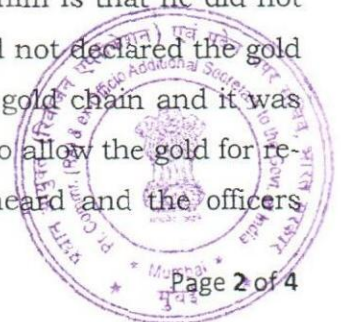
2. Briefly stated the facts of the case are that the applicant, a Sri Lankan national arrived at the Chennai Airport on 03.03.2013. He was intercepted while proceeding towards the Green Channel and a gold chain weighing 80 gms totally valued at Rs. 2,28,823/- ( Two lacs Twenty eight thousand Eight hundred and twenty three ). After due process of the law vide Order-In-Original No. 233/ Batch A dated 03.03.2013, Original Adjudicating Authority confiscated the gold bars referred to above under section 111(d) and 111(l) of the Customs Act, 1962 read with section 3(3) of the Foreign trade (D &R) Act, 1992. allowing it to be redeemed on payment of Redemption fine of Rs. 1,15,000/-. A Penalty of Rs. 23,000/- under Section 112 (a) of the Customs Act, 1962 was also imposed on the Applicant.

3. Aggrieved by this order the Applicant filed an appeal with the Commissioner of Customs (Appeals) Chennai. The Commissioner of Customs (Appeals) Chennai, vide his Order in Appeal C.Cus No. 1636/2013 dated 26.11.2013 rejected the appeal of the applicant.

4. The applicant has filed this Revision Application inter alia on the grounds that;

4.1 The order of the Commissioner (Appeals) is against law, weight of evidence and circumstances and probabilities of the case; he was all along under the control of the Customs officers at the red channel and had not crossed the green channel; he orally declared the gold and he was wearing the same as such having seen the same the question of declaration does not arise; he came to India occasionally and was not aware of the procedure; being a foreign citizen the question of eligibility does not arise; The Applicant further pleaded that as per the circular 394/71/97-CUS (AS) GOI dated 22.06.1999 states that arrest and prosecution need not be considered in routine in respect of foreign nationals and NRIs who have inadvertently not declared;

The Applicant also pleaded that; the only allegation against him is that he did not declare the gold; even assuming without declaring that he had not declared the gold it was only a technical error; Further as he was wearing the gold chain and it was visible the question of declaration does not arise; his request to allow the gold for re-export without redemption fine and penalty was also not heard and the officers



proceeded to detain the jewelry; 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, such an exercise was not conducted by the officers; the gold was not concealed in an ingenious manner.

4.2 The Revision Applicant cited various assorted judgments and boards policies in support of his case and pleaded for re-export and reduction of redemption fine and personal penalty.

5. 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.

6. 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. The gold chain was worn by the Applicant and it is 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 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, Government allows redemption of the confiscated gold bars for re-export in lieu of fine. The Government also reduces the redemption fine imposed on the gold weighing 80 gms valued at Rs. 2,28,823/- (Two lacs Twenty eight thousand Eight hundred and twenty three ) from Rs. 1,15,000/(Rupees One lac fifteen thousand ) to Rs1,00,000/- (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. 23,000/- (Rupees Twenty three 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.

10. So, ordered.

*Ashok Kumar Mehta*  
27.3.2018

(ASHOK KUMAR MEHTA)  
Principal Commissioner & ex-officio  
Additional Secretary to Government of India

ORDER No. 138/2018-CUS (SZ) /ASRA/MUMBAI

DATED 23-03-2018

To,

Shri Rajkumar Ramasamy  
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*  
27/3/18

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

Copy to:

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

