

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
8th Floor, World Trade Centre, Centre – I, Cuffe Parade,
Mumbai-400 005.

F.No. 373/118/B/13-RA / 1074

Date of Issue 06.02.2018

ORDER NO. 14 /2018-CUS (SZ) / ASRA / MUMBAI/ DATED 31.01.2018 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. M. Ashraf Ali.

Respondent : Commissioner of Customs, Trichy

Subject : Revision Application filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal No. C.Cus No. 79/2013 dated 10.10.2013 passed by the Commissioner of Customs (Appeals) Trichy.



ORDER

This revision application has been filed by Shri. M. Asraf Ali (hereinafter referred to as the Applicant) against the order no 79/2013 dated 10.10.2013 passed by the Commissioner of Customs (Appeals), Trichy.

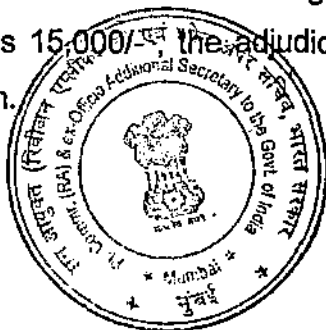
2. Briefly stated facts of the case are that the applicant, Shri M. Asraf Ali Appellant arrived at Thiruchirappalli Airport on 25.03.2013. On his arrival, he declared that he has brought some watch batteries (old & used) and miscellaneous goods as his personal effects. On physical examination it was found that the appellants had brought 15 Kgs of Watch Batteries(old & used) valued at Rs.15,000/- and Miscellaneous goods valued at Rs.2,000/- in his baggage. It appeared that the applicant had brought restricted goods being old and used watch batteries in trade quantity. Further it appeared that although the goods were restricted, the Appellant had no valid documents/ license to import the same into India. After due process of law, the adjudicating authority absolutely confiscated the said 15 Kgs of the above said old and used watch batteries under Sec 111(l) and 111(m) of Customs Act,1962 and also imposed penalty Rs. 5,000/- under section 112 of Customs Act,1962.

3. Aggrieved by the above order, the Appellant has filed an appeal before the Commissioner of Customs and Central Excise (Appeals) Trichy. The Commissioner (Appeals) rejected the Appeal stating that the goods are in Commercial/ trade quantity and do not constitute bonafide baggage. The Applicant also did not possess an import license and the said items were also restricted for import.

4. Aggrieved with the above order the Applicant has filed this revision application interalia on the following grounds.

(i) Order of the respondent is against law, weight of evidence and circumstances and probabilities of the case.

(ii) The applicant further submits that the seized goods are accessories valued about Rs. 1000/- however, that the adjudication authority ordered for it to be absolutely confiscated and though the accessories and assessed the value of the goods is Rs 15,000/- the adjudication authority has not given reason for absolute confiscation.



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(iii) The appellant further submits that seized goods are old and used and there is no commercial value. But the officers have assessed value on the higher side.

(iv) Further, the seized goods are very less in value and hence the appellant requested the hon'ble authority to permit him to re-export the accessories.

(v) The Applicant pleaded before the adjudication authority to re-export the goods. But the adjudication authority failed to even consider the same and passed an order for confiscation without any substantial reasons.

(vi) Further the adjudication authority also failed to taken into consideration that the duty will be imposed 35 percentage of the value of the goods and 2 percentage educational cess and also failed to note that profit of the goods.

The Revision application requested for re-export of the watch batteries and also set aside and or reduce the personal penalty of Rs. 5000/-

5. A personal hearing in the case was held on 04.12.2017, the Advocate for the respondent Shri Palanikumar requested for an adjournment due to a medical emergency. The personal hearing was rescheduled on 29.01.2018, which was attended by the Shri Palanikumar. The Advocate, re-iterated the submissions filed in the Revision Application and pleaded for a lenient view.

6. The Government has carefully gone through the facts of the case. The Applicant has brought in 15 kgs of old and used watch batteries which have been valued at Rs. 15,000/-. The goods were declared by the Applicant on arrival at the airport. Government notes that the goods are hazardous waste in nature and cannot be dumped in India. The Applicant has claimed that the goods were of lower value and has requested for re-export. Be that as it may the Government is inclined to accept the request. Accordingly, Government sets aside absolute confiscation of these goods in the Order in Appeal and permits re-export. Government allows the confiscated goods totally weighing 15 kgs of old and used batteries valued at Rs. 15,000/- (Rupees Fifteen Thousand) to be redeemed for re-export on redemption fine of Rs.5,000/- (Rupees Five thousand). Government also reduces the personal penalty imposed on the Applicant from Rs. 5,000/- (Rupees Five



thousand) to Rs. 2,000/- (Rupees Two-thousand), along with appropriate Customs duty as applicable under section 112(a) of the Customs Act,1962.

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

8. So, ordered.

Ashok Kumar Mehta
21.1.18

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

ORDER No. 14/2018-CUS (SZ) /ASRA/ MUMBAI

DATED 31-01-2018

To,

Shri M. Asraf Ali.
Old No. 12, New No. 18,
7th Street, Ashok Nagar,
Chennai – 600 083..

True Copy Attested

Sankar San Munda
SANKARSAN MUNDA 21/1/18
Asstt. Commissioner of Custom & C. Ex.

Copy to:

1. The Commissioner of Customs, Air Customs, Trichy
2. The Commissioner of Customs & Central Excise(Appeals), Trichy.
3. Sr. P.S. to AS (RA), Mumbai.
4. Guard File.
5. Spare Copy.

