

REGISTERED
SPEED POST



GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

8th Floor, World Trade Centre, Centre - I, Cuffe Parade,
Mumbai-400 005

F.No. 371/12 & 13/B/15-RA

3507

Date of Issue 09.07.2021

158-159/2021

ORDER NO. — CUS (WZ)/ASRA/MUMBAI DATED 07.7.2021 OF THE
GOVERNMENT OF INDIA PASSED BY SHRI SHRAWAN KUMAR, PRINCIPAL
COMMISSIONER & EX-OFFICIO ADDITIONAL SECRETARY TO THE
GOVERNMENT OF INDIA, UNDER SECTION 129DD OF THE CUSTOMS
ACT, 1962.

Applicant : Shri Rangrej Ammar Mohammed Hussain
: Shri Mohammed Abdul Kader Hussain Rangrej

Respondent : Commissioner of Customs, Ahmedabad.

Subject : Revision Application filed, under Section 129DD of the
Customs Act, 1962 against the Order-in-Appeal No. MUM-
CUSTM-PAX-APP-554-555/14-15 dated 24.11.2014
passed by the Commissioner of Customs (Appeals),
Mumbai, Zone -III.

ORDER

These revision applications have been filed by the Shri Rangrej Ammar Mohammed Hussain and Shri Mohammed Abdul Kader Hussain Rangraj (herein referred to as Applicants) against the order No. MUM-CUSTOM-PAX-APP-554-555/14-15 dated 24.11.2014 passed by the Commissioner of Customs (Appeals), Mumbai, Zone -III. As both the applications pertain to the same case and have been adjudicated through a single order these revision applications are being decided together.

2. Briefly stated facts of the case are that the Officers of Customs at CS International airport received specific information that one passenger, Shri Rangrej Ammar Mohammed Hussain, aged 17 yrs who arrived from Hong Kong and was waiting in the transit lounge for his onward flight to Dubai, was carrying some powdery substance believed to be explosive in his checked-in baggage. A discreet watch was kept on the passenger as he was offloaded from his departing flight. The passenger was intercepted at the exit gate of the arrival hall after he had cleared himself through the green channel. Examination of his baggage resulted in the recovery of three black coloured polythene bags containing Ruthenium powder valued at Rs. 7,31,732/- (Rupees Seven lakhs Thirty one thousand Seven hundred and thirty two). The officers also recovered Indian currency totally valued at Rs. 72, 00,000/- (Rupees Seventy two lakhs). One of the currency notes of Rs.1000/- and one note of Rs.500/- was fake currency. When escorting Shri Rangrej Ammar Mohammed Hussain for examination one person Shri Mohammed Abdul Kader Hussain Rangraj approached the officers and introduced himself as the father of Shri Rangrej Ammar Mohammed Hussain. He informed the officers that he had come from Dubai to assist his son, when he was informed that his son was offloaded from his Dubai flight. Investigations conducted revealed that Shri Mohammed Abdul Kader Hussain Rangraj had directed his son, Shri Rangrej Ammar Mohammed Hussain to ferry the Ruthenium powder and the Indian currency to Dubai from Hong Kong.

3. After due process of the law vide Order-In-Original No. ADC/ML/ADJN/26/2013-14 dated 28.10.2013 the Original Adjudicating Authority confiscated the fake currency absolutely. The Ruthenium powder valued at Rs. 7,31,782/- and Indian currency of Rs. 71,98,500/- was confiscated but allowed to be redeemed on payment of Rs. 20,00,000/- (Rupees Twenty lakhs). A penalty of Rs. 7,00,000/- (Rupees three lakhs) each was imposed on both the Applicants under section 112 a & b of the Customs Act, 1962. A penalty of Rs. 10,000/- (Rupees Ten thousand) each was also imposed under section 114AA of the Customs Act, 1962 on each of the Applicants.

4. Aggrieved by this order the Respondents filed an appeal with the Commissioner of Customs (Appeals), The Commissioner (Appeals) vide his order MUM-CUSTOM-PAX-APP-554-555/14-15 dated 24.11.2014 rejected the Appeal.

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

5.1 The impugned order passed by the Respondent is bad in law and unjust. The Applicants submits that the impugned order has been passed without giving due consideration to the documents on record and facts of the case.

5.2 The Ld. Adjudicating authority ought to have appreciated that goods brought in by the Applicants are neither restricted nor prohibited

5.3 The Ld. Adjudicating authority ought to have appreciated that the goods seized by the customs authorities were not concealed in any manner whatsoever.

5.4 The Ld. Adjudicating authority ought to have appreciated that the Applicants were not aware of the Customs Rules and violation, if any, was of a technical nature and out of ignorance.

5.5 The Ld. Adjudicating Authority ought to have appreciated that the goods were not meant for Mumbai as the Appellant was traveling from Hong Kong to Dubai via Mumbai and there was the gap of 10 hours for departure from Mumbai to Dubai. Therefore, confiscation of the Ruthenium Powder and Indian currency and imposing Heavy fine is totally unjustified. The Applicants submits that in view of the aforesaid submissions, the impugned order deserves to be set aside.

5.6 The impugned order-in_original passed by the Respondent may kindly be set aside considering the above facts and circumstances of the case. The Goods already released by the Ld. Adjudicating authority for home consumption were never meant for India, therefore the same could be exported to Dubai as already requested before the Ld. Adjudicating authority and Appellant authority.

6. Accordingly personal hearings in the case were held on 09.03.2021. Shri N. J. Heera, Advocate appeared on behalf of the Applicant. He reiterated the submissions in the Revision applications and further submitted that the passenger was a transiting passenger from Hongkong to Dubai via Mumbai. The father of the first Applicant had come to Mumbai from Dubai to help his son. He requested that the Order in Appeal be set aside and allow the revision Appeal.

7. The Government condones the delay of 10 days as it is within condonable limits and proceeds to decide the case on merits. Government observes that the Applicants have pleaded that their ultimate destination was not India. The Applicant, Shri Rangrej Ammar Mohammed Hussain was in transit, He had arrived from Hong Kong and was waiting for his onward flight to Dubai. He was off loaded from the Dubai flight on suspicion that he was carrying some explosive powder. The officers of the Customs kept a discreet watch on the Applicant and intercepted him after he had cleared the green channel. His father, Shri Mohammed Abdul Kader Hussain Rangraj, when informed by the airlines that his son was offloaded, arrived at the Airport, from Sharjah, Dubai to help his son.

8. Government notes that the investigations conducted by the investigating authorities reveal that the impugned powder was not explosive in nature and therefore the initial specific intelligence was incorrect. The Applicant was offloaded from his onward flight specifically on the basis of this information, thus forcing the Applicants to await completion of investigations. It was this reason which compelled the Applicants to reschedule their onward journey. After investigation had revealed that the goods were not explosive/offending and that its ultimate destination was not India, it was imperative that such goods should have been allowed re-export. Attention is drawn toward the order of the original adjudicating authority para 60 quotes "*I find that there is substance in the argument placed on behalf of the noticees that the said Indian currency along with the Ruthenium powder was not meant for consumption in India were to be taken to Dubai as the passenger Master Rangrej Ammar Mohammed Hussain had boarding card for Dubai and was intercepted while he was waiting in the transit lounge*". Government therefore opines that the Applicant was offloaded from his onward flight due to an intelligence which was found to be incorrect. The above para also indicates that the Applicant was not intercepted at the exit, after passing through the green channel as claimed, but was intercepted in the transit lounge itself, while awaiting his onward flight. Further the information which led to his offloading, was because he was carrying explosive material, therefore immediate interception and investigations were the need of the hour instead of waiting till the Applicant proceeded to the exit after clearing through the green channel. The said information was incorrect, however the officers acted in good faith. However, if the Applicant was not intercepted and investigated he would have boarded the plane for Dubai, and therefore the goods would not be liable for confiscation. Be that as it may, the redemption fine of Rs. 20,00,000/- on goods and currency totally valued at Rs.79,30,282/- is in the range that is imposed in cases where goods are not declared. In addition to the above a penalty of Rs. 7,00,000/- each on each of the Applicants is high and unjustified given the facts of the case. Government therefore would like to take a more reasonable view in the matter. The redemption fine and penalty is liable to be reduced.

9. In view of the above, the redemption fine of Rs. 20,00,000/- (Rupees Twenty Lakhs) is reduced to Rs.10,00,000/-(Rupees Ten Lakhs). The personal penalty of Rs. 7,00,000/- (Rupees Seven lakhs) imposed on each of the Applicants under section 112(a) of the Customs Act, 1962 is reduced to Rs. 4,00,000/- (Rupees Four lakhs). Government however observes that once penalty has been imposed under section 112(a) and (b) there is no necessity of imposing penalty under section 114AA, the penalty of Rs. 10,000/- (Rupees Ten thousand) imposed under section 114AA of the Customs Act,1962 on each of the Applicants is set aside.

10. Revision application is accordingly disposed of as above.

Shrawan Kumar
07/07/21
(SHRAWAN KUMAR)

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

158-159

ORDER No. /2021-CUS (WZ) /ASRA/

DATED 07.7.2021

To,

1. Shri Rangrej Ammar Mohammed Hussain, 610, Kalupur Bhagatwada, Ki Pole New Gate (Nava Darwaja Road), Zakariya Masjid, Ahmedabad-380 001, Gujarat.
2. Shri Mohammed Abdul Kader Hussain Rangrej, 610, Kalupur Bhagatwada, Ki Pole New Gate (Nava Darwaja Road), Zakariya Masjid, Ahmedabad- 380 001, Gujarat.
3. The Pr. Commissioner of Customs, C.S.I. Airport, Sahar Mumbai

Copy to:

1. Shri N. J. Heera, Advocate, Nulwala Bldg, 41, Mint Road, Opp. GPO, Fort, Mumbai - 400 001.
2. Sr. P.S. to AS (RA), Mumbai.
3. Guard File.
4. Spare Copy.