



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

F.No. 373/77/B/13-RA/1076

Date of Issue 06.02.2018

ORDER NO. 16/2018-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. Kudubdeen.

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. 53/2013 dated 30.04.2013 passed by the Commissioner of Customs (Appeals) Trichy.



ORDER

This revision application has been filed by Shri. Kudubdeen (hereinafter referred to as the Applicant) against the order no 53/2013 dated 30.04.2013 passed by the Commissioner of Customs (Appeals), Trichy.

2. Briefly stated facts of the case are that the applicant, Shri. Kudubdeen arrived at Trichy Airport from Bangkok and brought one Pioneer Advanced AM) Mix Trax valued at Rs. 20,000/- ; one FM Receiver IC 2300 H without accessories valued at Rs. 10,000/- and Two numbers of Samsung 55" TV- 6000 Series (Slim) valued at Rs. 1,64,000/-. The total value of the goods was Rs.1,94,000/-. After due process of law, the lower authority absolutely confiscated the said restricted goods i.e. the FM Receiver, as no special licence was not available with him and confiscated the said 2 TVs under Section 111 (i), 111(1) & 111(m) of C A, 1962 and gave an option to redeem the same on payment of fine along with customs duty as applicable and also impose penalty under Sec 112 of Customs Act, 1962. Aggrieved by this order, the applicant filed an appeal with the Commissioner of Customs and Central Excise (Appeals) Thiruchirapally.

3. The Commissioner of Customs (Appeals) Chennai, partly allowed the Appeal by directing the lower Adjudicating authority to give full free allowance on the said goods brought by the Applicant and to recalculate the appropriate duty and impose fine and penalty as applicable. The FM receiver being a restricted item the absolute confiscation was upheld.

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

- (i) The order of the respondent is contrary to the law.
- (ii) The Commissioner (Appeals) has overlooked the fact that the FM receiver was an old and used and was taken out to Hong Kong for repairs. This is evident from the fact that it was without accessories.
- (iii) The matter with respect to the FM receiver should be taken up with the Telegraphy authority and action be taken after obtaining clarification from the said authority.
- (iv) No notifications have been issued under section 11 of the Customs Act. Prohibiting the import of FM receiver. The Commissioner (Appeals) has not discussed the



merits of any submissions and has simply confirmed the confiscation of the old FM receiver.

(v) The applicant has brought bonafide baggage as held by the Commissioner (Appeals) which has to be released unconditionally on payment of duty.

(vi) The appellants submitted that the order of confiscation of the two TVs is bad in law. The adjudicating authority has held that the two TVs are in trade quantity. This is wrong. He had brought one TV for himself and one TV for giving to his close relative who for sometime was asking him to purchase one latest TV. The second TV is for his relative and not for sale. Before proceeding abroad, he checked up with the Customs officers who informed that two TVs can be brought, that one will be cleared allowing free allowance and the second on full payment of duty

Hence, the Applicant prays that the Hon'ble Revisional Authority may order favourable reliefs as claimed and render justice.

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.

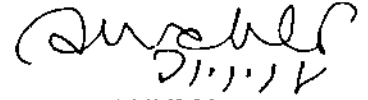
6. The Government has carefully gone through the facts of the case. The Commissioner (Appeals) has already extended relief by directing the lower adjudicating Authority to give full free allowance on the said goods ie two Samsung TV's and the Pioneer Advanced AM) Mix Trax and recalculate Customs duty on the said goods. With regard to the FM Receiver IC 2300 H without accessories, the Commissioner (Appeals) upheld absolute confiscation. Government is of the view that the FM trans receiver is a restricted item for free import and no person is allowed to possess the said equipment except under a licence issued by the Indian Wireless Telegraphy Act, 1933/ Indian Telegraph Act, 1985. The Applicant has not produced any documents showing his eligibility to import and possess such an item. Hence, the Government also holds that the said item is liable for absolute confiscation. The Government agrees with the impugned order of the Commissioner (Appeals). The Revision Application is therefore liable to be rejected.



7. The Government therefore finds no reason to interfere with the Order-in-Appeal. The Appellate order 53/2013 dated 30.04.2013 passed by the Commissioner of Customs (Appeals), Trichy.

8. Accordingly, the instant Revision application is dismissed.

9. So, ordered.



(ASHOK KUMAR MEHTA)

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

ORDER No. 16/2018-CUS (SZ) /ASRA/MUMBAI

DATED 31.01.2018

To,

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

True Copy Attached



SANKAR SAN MUNDA
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.

