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SPEED POST



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

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F.No. 371/32/B/15-RA / 2816

Date of Issue 27.09.2021

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ORDER NO. 170/2021-CUS (WZ)/ASRA/MUMBAI DATED 20.7.2021 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.

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Applicant : Smt. Kamal Jitender Lal

Respondent : Pr. Commissioner of Customs, CSI Airport, Mumbai

Subject : Revision Application filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal No. Mum-CUSTM-PAX-APP-569/2014-15 dated 26.11.2014 passed by the Commissioner of Customs (Appeals), Mumbai-III.

ORDER

This revision application has been filed by Shri Kamal Jitender Lal (herein referred to as Applicant department) against the Order in Appeal No. MUM-CUSTOM-PAX-APP-569/2014-15 dated 26.11.2014 passed by the Commissioner of Customs (Appeals), Mumbai- Zone-III.

2. The Officers of Air intelligence of Customs intercepted Shri Kamal Jitender Lal along with his wife Smt. Kamal Jitender Lal his son Kedar Kumar Jitender Lal and Shri Manan Nitin Lal at the CSI Airport, Mumbai on 11.06.2013 after they had cleared themselves through the green channel, the total dutiable goods being imported was filled in as NIL. The personal examination of Smt. Kamal Jitender Lal resulted in the recovery of 589.700 grams of gold jewelry. The personal of Shri Kamal Jitender Lal resulted in the recovery of one gold chain and one gold ring weighing 83.100 grams. The officers also recovered invoices covering the entire quantity of 672.800 grams of gold jewelry valued at Rs. 18,20,476/- ( Rupees Eighteen lakhs Twenty thousand Four hundred and Seventy six). Nothing was recovered from the other two passengers.

3. The Original Adjudicating Authority vide its Order-In-Original No. ADC/ML/ADJN/59/13-14 dated 30.12.2013 ordered confiscation of the gold under Section 111 (d) (l) and (m) of the Customs Act, 1962, but allowed redemption on payment of Rs. 4,00,000/- ( Rupees Four lakhs ) and imposed penalty of Rs. 2,00,000/- (Rupees Two lakhs) on Smt. Kamal Jitender Lal.

4. Aggrieved by this order the Applicant filed an appeal with the Commissioner of Customs (Appeals), pleading for reduction of the redemption fine and penalty. The Commissioner (Appeals) vide his order No. MUM-CUSTOM-PAX-APP-569/2014-15 dated 26.11.2014 reduced the redemption fine to Rs. 3,60,000/- (Rupees Three lakhs Sixty thousand) and

also reduced the penalty to Rs. 1,80,000/- (Rupees One lakh Eighty thousand).

5. Aggrieved with the order of the Appellate authority, the Applicant has filed this revision application inter alia submitting that ;

The appellant submits that, she along with her husband arrived on 11.06.2013 and was found with 672.500 grams gold which were valued at Rs18,29,476/- The appellant submits that, after the recovery of the above Jewellery appellant's statement and also the statement of her husband came to recorded wherein, appellant stated the reason for bringing the gold was to oblige a family friend Shri. Chaman Donga, and the same was not carried for any monetary consideration. The said statement are reflected on page 5 para 17, page 6 para 12, page 7 para 13, of order in original which clearly reflect that, the appellant had no illegal motive to evade duty on the contrary, appellant's status which is reflected in this statement which will show that, the said Jewellery was carried for long standing pension and not for any other purpose. The appellant after the receipt of the Show Cause Notice appeared before the Adjudicating Authority and requested for re-shipment but the same were rejected. The gold was not meant for sale or to evade duty.

5.2 The Applicant prayed that re-shipment be allowed, Redemption fine and Personal penalty be reduced, any other reliefs this Hon'ble court may deem fit and proper.

7. Personal hearings in the case was scheduled in the case on 08.12.2020, 15.12.2020, 22.12.2020, 25.02.2021 and 26.03.2021. Nobody attended the hearing on behalf of the Applicant or the department. The case is therefore being decided on the basis of available records on merits.

8. The Government has gone through the facts of the case. The Applicant did not declare the gold as required under section 77 of the Customs Act,

1962, the confiscation of the gold is therefore justified and the Applicant has rendered herself liable for penal action.

9. The Applicant has submitted that she her husband and sons had gone to Dubai as tourists. The impugned gold was given to them by her husband's friend and it was supposed to be delivered to his relative in Jamnagar. She did not carry it for monetary reasons. Government observes that the original adjudicating authority has taken a reasonable view in the matter and has allowed the impugned gold to be redeemed on reasonable fine and personal penalty. The Appellate authority has upheld the order of the original adjudicating authority and has reduced the redemption fine and penalty. The Applicants have filed this revision application pleading for re-shipment and further reduction of redemption fine and penalty.

10. Government notes that Re-export of dutiable goods is governed by Section 80 of the Customs Act, 1962, it is reproduced below,

*“ 80. Temporary detention of baggage.—Where the baggage of a passenger contains any article which is dutiable or the import of which is prohibited and in respect of which a true declaration has been made under section 77, the proper officer may, at the request of the passenger, detain such article for the purpose of being returned to him on his leaving India [and if for any reason, the passenger is not able to collect the article at the time of his leaving India, the article may be returned to him through any other passenger authorised by him and leaving India or as cargo consigned in his name].”*

Had the Applicants informed the Customs authorities and made a true declaration that they were carrying dutiable goods, their gold jewelry could have been allowed re-export on their departure from India. As there was no true declaration by the Applicants, their request for re-export of the gold jewelry cannot be accepted. Government also observes that the Appellate authority has reduced the redemption fine and penalty to reasonable levels

and further reduction is unwarranted. The order of the Appellate authority is therefore liable to be upheld and the revision application is therefore liable to be dismissed.

18. In view of the above the Government upholds the Order of the Appellate authority. Revision Application is accordingly dismissed.

  
20/7/21  
( SHRAWAN KUMAR )

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

ORDER No. 70/2021-CUS (WZ) /ASRA/MUMBAI DATED 20-07-2021

To,

1. Smt. Kamal Jitender Lal, Modpar, Tal. Lalpur, Dist : Jamnagar, Gujarat – 360 531.
2. The Pr. Commissioner of Customs, CSI Airport, Sahar, Mumbai.

Copy to:

1. Shri Prakash Shingrani, Advocate, 12/334, New MIG Colony, Bandra ( East) Mumbai 400 051
2. Sr. P.S. to AS (RA), Mumbai.
3. Guard File.
4. Spare Copy.