

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. 373/13/B/16-RA/8022

Date of Issue 27.07.2021

ORDER NO.171/21-CUS (SZ)/ASRA/MUMBAI DATED 20.07.2021 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 Abdul Latif Saibudeen

Respondent : Commissioner of Customs, Chennai.

Subject : Revision Application filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal C.CUS-I No. 596/2015 dated 30.09.2015 passed by the Commissioner of Customs (Appeals), Chennai.

ORDER

This revision application has been filed by the Abdul Latif Saibudeen (herein referred to as Applicant) against the order C. CUS-I No. 596/2015 dated 30.09.2015 passed by the Commissioner of Customs (Appeals), Chennai.

2. Briefly stated facts of the case are that the Officers of Customs intercepted Shri Abdul Latif Saibudeen a Singapore national at the Anna International Airport, Chennai on 24.09.2014 as he was walking out of the green channel. He was found carrying seven gold bars in his pant pockets totally weighing 700 grams valued at Rs. 17,29,000/- (Rupees Seventeen lacs Twenty nine thousand).

3. After due process of the law vide Order-In-Original No. 1210/2014 AIR dated 23.03.2015 the Original Adjudicating Authority ordered confiscation of the gold bars and gave the applicant the option to redeem the gold for re-export on payment of Rs. 6,75,000/- (Rupees Six lacs seventy five thousand) as redemption fine under Section 125 of the Customs Act, 1962 and imposed penalty of Rs. 1,75,000/- (Rupees Twelve thousand) under Section 112 (a) of the Customs Act,1962.

4. Aggrieved by this order the Applicant filed an appeal with the Commissioner of Customs (Appeals), The Commissioner (Appeals) vide his order C. CUS-I No. 596/2015 dated 30.09.2015 reduced the redemption fine to Rs. 5,00,000/-(Rupees Five lacs) and also reduced the personal penalty imposed to Rs. 1,25,000/- and partially allowed the appeal of the Applicant.

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

5.1 The Learned Commissioner (Appeals) having found that the goods are not liable for confiscation ought to have cancelled the penalty and ought to have reduced the redemption fine;

5.2 The Learned Judge ought to have seen that the total amount paid by the applicant towards penalty was reduced to Rs. 1,25,000/- for clearing and releasing the goods valued at Rs.17,29,000/- from Rs.1,75,000/- and to pay redemption fine;

5.3 Both the penalty and redemption fine are very harsh and when he has not concealed or when there is no non declaration, the imposition of redemption fine and penalty are not leviable/chargeable and ought to have ordered to released the goods without any redemption fine and penalty;

5.4 The learned Commissioner (Appeals), ought to have released the goods without penalty and Redemption fine since the applicant had not concealed and attempted to pass through green channel without declaring the gold;

5.5 The Commissioner (Appeals-I) ought to have held that since the gold are not for any commercial purpose, ought to have released the gold without penalty and Redemption fine; The applicant may be permitted to raise additional grounds at the time of hearing.

5.2 It is therefore, prayed that the revision application may be allowed by setting aside the order in appeal by cancelling the redemption fine and penalty and order a refund or any other order as deemed fit.

6. In view of the above, personal hearings in the case were scheduled on 08.12.2020, 15.12.2020, 22.12.2020, 25.02.2021 and 06.04.2021. Nobody attended the hearing on behalf of the Applicant or the department the case is therefore decided on the basis of available records on merits.

7. The Government has gone through the case records. It is observed that the applicant had opted for the green channel, thereby indicating he had nothing to declare. A proper declaration was not filed inspite of having dutiable goods and therefore the confiscation of the gold is justified.

8. However, the applicant is a foreign citizen and not supposed to know the Indian customs formalities. The gold was recovered from his pant pockets and not ingeniously concealed. The applicant does not have a history of previous

offences, and noting these facts, the gold was allowed redemption by the original adjudicating authority. Government observes that the Appellate authority has reduced the redemption fine and penalty giving further relief to the Applicant. Under the circumstances the applicants pleadings for cancelling the redemption fine and penalty and order a refund are not in order or justified. Once violation of the provisions of the Customs Act is confirmed, the offending goods which become liable for confiscation under the Customs Act, 1962 can't be released without levying appropriate redemption fine vide Section 125 of the Customs Act, 1962. The order of the Appellate authority in this regard is therefore not in error. Every tourist has to comply with the laws prevailing in the country visited. If a tourist is caught circumventing the law, he must face the consequences. Government therefore disagrees with the submissions of the Applicant and the Appellate order is therefore liable to be upheld.

9. In view of the above facts, Government is of the opinion that the original adjudicating authority has rightly taken a reasonable view in the matter and allowed the gold on redemption fine and penalty, which has been upheld by the Appellate authority further reducing the redemption fine and penalty. The Revision Application is therefore liable to be dismissed.

10. Revision application is accordingly dismissed.

Shrawan
20/7/21
(SHRAWAN KUMAR)

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

ORDER No. 7/2021-CUS (SZ) /ASRA/ MUMBAI

DATED 20.07.2021

To,

1. Shri Abdul Latiff Saibudeen, 2-29, Muslim Street, Thirungeshwaran, Tamil Nadu 612 204.
2. The Commissioner of Customs, Chennai -I Commissionerate, New Custom House, Meenambakam, Chennai-600 027.

Copy to:

3. Shri M. Abdul Nazeer, No.6 Gandhi Irwin Road, Hotel Imperial Complex, Egmore, Chennai 600 008.
4. Sr. P.S. to AS (RA), Mumbai.
5. Guard File.
6. Spare Copy.