



GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

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

F.No. 373/124/B/14-RA/059

Date of Issue : 17.04.2018

ORDER NO.175/2018-CUS (SZ) / ASRA / MUMBAI/ DATED 11.04.2018 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 B. Christopher

Respondent : Commissioner of Customs, Chennai.

Subject :Revision Application filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal No. C.Cus No. 516/2014 dated 20.03.2014 passed by the Commissioner of Customs (Appeals) Chennai.



ORDER

This revision application has been filed by Shri B. Christopher (hereinafter referred to as the Applicant) against the order no 516/2014 dated 20.03.2014 passed by the Commissioner of Customs (Appeals), Chennai.

2. Briefly stated facts of the case are that the Applicant works as a loader at Chennai International Airport and he was intercepted by the security officer which resulted in the recovery of Indian currency equivalent to Rs. 3,00,000/-. The Applicant admitted that the currency was to be handed over to a passenger who was going abroad. After due process of the law the Original Adjudicating Authority vide his order 02/2010 ADC dated 08.01.2010 confiscated the Indian currency absolutely, under Section 113 (d) & (e) of the Customs Act 1962 read with section 3(3) of the Foreign Trade (D&R) Act 1992, a penalty of Rs.30,000/- was imposed under Section 114(i) of the Customs Act. 1962.

3. Aggrieved by the order of the Original Adjudicating Authority, the Applicant filed an appeal before the Commissioner of Customs (Appeals). The Commissioner of Customs (Appeals) Chennai, vide an interim order directed the Applicant to deposit a sum of Rs. 10, 000/- failing which the Appeal would be liable for rejection without any further reference to him. The Applicant failed to comply with the said order and accordingly the Appeal was dismissed without going into merits. A Revision application was filed in the matter and the Revisionary Authority vide his Order dated 224/11- Cus Dated 28.07.2011 directed the Applicant to make a fresh deposit of Rs.7,500/- and restored the Appeal. The Commissioner of Customs (Appeals) vide his Order in Appeal C.Cus No. 516/2014 dated 20.03.2014 rejected the Appeal.

Aggrieved with the order in Appeal, the Applicant has filed this Revision Application on the grounds that;

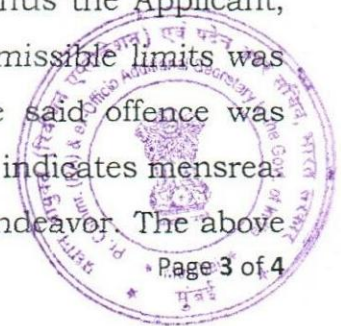


4.1 Order of the respondent is against law, weight of evidence and circumstances and probabilities of the case; the seized currency belongs to him and he was not aware that it was an offence to take currency out of India; There was no contumacious conduct on part of him but the conduct of a person ignorant of the law; the currency are restricted and not prohibited; The Apex court in the case of Hargovind Dash vs Collector Of Customs 1992 (61) ELT 172 (SC) and several other cases has pronounced that the quasi judicial authorities should use the discretionary powers in a judicious and not an arbitrary manner and considering the facts of the matter and various precedent orders the currency should be released on payment of nominal redemption fine.

4.3 The Applicant cited various assorted judgments in support of his case and prayed that the Hon'ble Revision Authority may set aside the order and release the Indian currency on payment of nominal redemption fine and reduce the personal penalty.

5. A personal hearing in the case was held on 07.03.2018, the Advocate for the respondent Shri Palanikumar attended the hearing he re-iterated the submissions filed in Revision Application and cited the decisions of GOI/Tribunals in support of his case. Nobody from the department attended the personal hearing.

6. The Government has gone through the facts of the case. The Applicant is a loader working at the Chennai International Airport. He had carried the currency into the Airport premises so as to hand it over to a passenger travelling abroad, and with the specific intention to avoid scrutiny of the authorities at the airport. As he used to work as at the Chennai International Airport he was well aware that it was an offence to do so, and order to avoid detection he had concealed the currency on his person. Thus the Applicant, was fully aware that carrying currency abroad beyond permissible limits was an offence. The facts seen in its entirety reveal that the said offence was committed in a premeditated and clever manner and clearly indicates mensrea. If he was not intercepted he would have succeeded in his endeavor. The above



acts have therefore rendered the Applicant liable for penal action under section 114 (i) of the Customs Act, 1962. The Government therefore holds that the Original Adjudicating Authority has rightly confiscated the Indian currency and imposed penalty of Rs. 30,000/-. The Government also holds that Commissioner (Appeals) has rightly upheld the order of the original adjudicating authority.

7. The Government therefore finds no reason to interfere with the Order-in-Appeal. The Appellate order C. Cus. No. 516/2014 dated 20.03.2014 passed by the Commissioner of Customs (Appeals), is upheld as legal and proper.

8. Revision Application is dismissed.

9. So, ordered.

(Handwritten Signature)
11.4.18

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

ORDER No. 175/2018-CUS (SZ)/ASRA/MUMBAI

DATED

11.04.2018

True Copy Attested

To,

Shri B. Christopher
C/o Shri S. Palinikumar, Advocate,
No. 10, Sukurama Street,
Second Floor,
Chennai -600 001.

(Handwritten Signature)
11/4/18

SANKARSAN MUNDA
Asstt. Commissioner of Custom & C. Ex.

Copy to:

1. The Commissioner of Customs, Chennai-I.
2. The Commissioner of Customs (Appeals-I), Chennai.
3. Sr. P.S. to AS (RA), Mumbai.
4. Guard File.
5. Spare Copy.

