

**REGISTERED**  
**SPEED POST**



**F.No.373/100/B/13-RA-CUS**  
GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
DEPARTMENT OF REVENUE  
(REVISION APPLICATION)

14, HUDCO VISHALA BLDG., B WING  
6<sup>th</sup> FLOOR, BHIKAJI CAMA PLACE,  
NEW DELHI-110 066

Date of Issue.....21/3/16.....

**ORDER NO. 18/2016-CUS DATED 25.02.2016** OF THE GOVERNMENT OF INDIA, PASSED BY SMT. RIMJHIM PRASAD, JOINT SECRETARY TO THE GOVERNMENT OF INDIA, UNDER SECTION 129 DD OF THE CUSTOMS ACT, 1962.

Subject : Revision Application filed under section 129 DD of the Customs Act, 1962 against the Order-in-Appeal No. 76/2013 dated 20.08.2013 passed by Commissioner of Customs (Appeal), Trichy.

Applicant : Shri Veeriaya

Respondent : Commissioner of Customs, Trichy

\*\*\*\*\*

## ORDER

This revision application is filed by Shri Veeriaya against the Order-in-Appeal No. 76/2013 dated 20.08.2013 passed by Commissioner of Customs, (Appeals) Trichy, with respect to Order-in-Original No. 117/2013 dated 18.05.2013 passed by Assistant Commissioner of Customs,(Airport) Trichy.

2. Brief facts of the case are that on 12.03.2013, the officers of Air intelligence Unit, while keeping surveillance on the passengers arriving by flight No. TR 2668 (Tiger Airways) from Singapore to Trichy at the arrival hall, identified one passenger with suspicious movements while he was crossing the green channel and was intercepted. The passenger was identified as Shri Veeriaya S/o Palanisamy holder of Indian Passport No. J 5662104, resident of Kariyanthalapatti, Melur Taluk, Madurai, Tamilnadu. On verification of the Customs declaration slip, it was noticed that the Pax has not declared the value of the dutiable goods brought by him. The Pax was asked whether he was carrying any gold ornaments in his brought luggage or in person to which he replied in the negative. Thereafter his baggage was screened and the officers found some suspicious image indicating the presence of gold. Thereon, his bags were subjected to detailed examination. On examination of his traveller bag, it was found that the Pax concealed 7 gold bracelets of 106.00 gram valued at Rs. 2,92,560/- among chocolates in one of the chocolate boxes, which was tampered and resealed. The Pax brought the said 7 gold bracelets without any valid permit/license/documents and without declaring the same to the Customs officers.

2.1 In his statement dated 13.03.2013, Shri Veeraiya, stated that he has working at Singapore as electrician for the past two years, that he purchased the said gold jewellery out of his income and he borrowed money from his friends for his sister's marriage to be given as gift, that since he did not have enough money to pay duty he concealed the gold jewellery in the chocolate box and brought in his luggage; that he knew the concealing gold jewellery to avoid payment of Customs duty is wrong and requested to be forgiven. He undertook to pay the duty and fine for the said gold ornaments. The seven gold bracelets of 106 grams valued at Rs. 2,92,560/- were confiscated by the adjudicating authority under Section 111(d), (i), (l) and (m) of the Customs Act, 1962 with option to redeem the same on payment of fine of Rs. 87,768/- under Section 125 of Customs Act, 1962 with appropriate duty and imposed penalty of Rs. 58,512/- under Section 112 of the Act *ibid*.

3. Being aggrieved by the said Order-in-Original, the applicant filed appeal before Commissioner (Appeals) who vide his Order-in-Appeal No. 76/2013 dated 20.08.2013 rejected the appeal of the applicant Shri Veeriaya and upheld the Order-in-Original.

4. Being aggrieved by the impugned Order-In-Appeal, the applicant has filed this Revision Application under Section 129 DD of Customs Act, 1962 before Central Government on the following grounds :

4.1 The Orders of the respondents are bad in law, weight of evidence and probabilities of the case.

4.2 Both the respondents failed to see that the true declaration made by the Applicant before the concerned officers at Airport and nothing concealed nor misdeclared by the applicant.

4.3. The respondents ought to have seen that the applicant had no any bad antecedent in the past and further he brought the goods not for trading but for his relatives and friends in India as gifts for them.

4.4 Both the respondents have failed to see that the applicant had opted red channel to prove his bona fideness that he has got dutiable goods. However the officers have totally ignored this and registered a case against the applicant.

4.5 The first appellate authority in an Appeal before it had not considered other relevant points and records but to modify and reduce redemption fine and penalty.

4.6 Under the above facts and circumstances of the case the applicant prays that this Hon'ble Revisionary Authority may be pleased to set aside redemption fine Rs. 87,768/- and personal penalty of Rs. 58,512/- and order by giving TR concession to the applicant and thereby render justice.

5. Personal hearing was scheduled in this case on 18.12.2015, 11.01.2016 and 27.01.2016. Shri K. Mohamed Ismail, advocate on behalf of the applicant vide his letter dated 05.01.2016 sought for the waiver of personal hearing and requested that the grounds of revision application may be taken and treated as arguments of this revision and decide the case. The respondent also filed their counter reply vide letter dt. 08.01.2016 reiterating that the orders of the respondent's are in order and applicant's application may not be considered. Both applicant and respondent did not want personal hearing and requested to decide the case on the basis of their respective submissions filed with Revisionary Authority. Hence, the Government proceeds to decide the case.

6. Government has carefully gone through the relevant case records available in case files, written submission and perused the impugned Order-in-Original and Order-in-Appeal.

7. On perusal of records, Government observes that the applicant upon arrival from Singapore to Trichy was intercepted while crossing the Customs green channel at the Airport. Upon screening of his baggage it was found to contain 7 gold bracelets

weighing 106.00 grams valued at Rs. 2,92,560/- concealed among chocolates in one of the chocolate boxes which was tampered and resealed and which was not declared in the baggage declaration slip filed under Section 77. He admitted in his statement dated 13.03.2013 that he had concealed the gold jewellery in order to avoid payment of duty. The impugned goods were confiscated by the adjudicating authority under Section 111(d), (i), (l) and (m) of the Customs Act, 1962 but gave the applicant option to redeem the goods on payment of redemption fine of Rs. 87768/- under Section 125 along with appropriate duty and also imposed a penalty of Rs. 58,512/- under Section 112 of the Act. The appeal filed against the said order before Commissioner (Appeals) was rejected. Now the applicant has filed this revision application on grounds in para 4 above for setting aside the redemption fine and penalty.

8. On perusal of the records, Government observes that the applicant passenger has mainly contended that he reported at the Red channel to prove his bonafideness that he had got dutiable goods and that true declaration was made before the Customs officers. However, Government observes that it is a fact on record that the applicant had imported the said gold bracelets by way of concealment in the chocolate box, which was kept inside his hand bag, with motive to smuggle the same into India with culpable mind to evade customs duty by not declaration the same as required under Section 77 of the Customs Act, 1962. Also, that the seized Customs declaration card of the passenger did not bear any description of impugned goods and its value thereon.

9. Government notes that as per records available, the voluntary statement was recorded before Customs Superintendent on 13.03.2013 under the relevant Section of the Customs Act, 1962 which inter-alia contains that he concealed the gold jewellery in chocolate box; that he did not have enough money to pay duty; that he knew the concealing of gold jewellery to avoid payment of Customs duty is wrong and requested to be forgiven. He undertook to pay duty and fine for the said gold ornaments. Even the statement was never retracted.

10. Further Government observes that it is a fact on record that on verification of Customs declaration slip it was found that the passenger had not declared the impugned goods. Even upon being asked if he was carrying any ornaments he replied in the negative. When upon screening of his baggage suspicious image indicating presence of gold was noticed and he was once again asked if he was carrying gold, the passenger replied in the negative. Hence the plea of the applicant that he reported at the Red Channel and declared the impugned goods is not tenable and is a afterthought to escape from the penal action at the hands of Customs authorities for his acts of omission and commission committed by him.

11. Government further finds that the plea of the applicant for extending benefit of TR to the applicant cannot be acceded to in view of the fact that he has not lived abroad for the required period and for the aforesaid offence committed by the applicant. As per Section 79(2) read with the Baggage Rules the benefit can only be extended to bonafide baggage and truly declared to Customs. Also the plea of the applicant that he had brought the goods as gifts for friends and relatives is not tenable. The import of goods in commercial quantity is not permissible within the scope of Baggage Rules and definitely not if the goods are attempted to be smuggled into the country.

12. In view of the above, Government finds no reason to interfere with the impugned Order-in-Appeal and upholds the same.

13. The Revision Application is rejected as being devoid of merit.

14. So, ordered.



( **RIMJHIM PRASAD** )

Joint Secretary to the Government of India

Shri Veeraiya S/o Palanisamy,  
No. 3/29, Kariyanthalpatti,  
Manappacheri (Post) Melur Talak,  
Madurai-625103 Tamilnadu.

ATTESTED



Under Secretary (R)

**ORDER NO. 18/2016-CUS DATED 25.02.2016**

Copy to:

1. The Commissioner of Customs, No.1 Williams Road, Cantonment, Tiruchirapally-620001.
2. The Commissioner of Customs & Central Excise (Appeal), No.1 Williams Road, Cantonment, Tiruchirapally-620001.
3. The Assistant Commissioner of Customs, Airport Trichy -620007
4. Shri K. Mohamed Ismail , Advocate & Notary Public New No. 102, Linghi Chetty Street, Chennai-600001.
5. Guard File.
6. PA to JS (RA)
7. Spare Copy

ATTESTED

(Shaukat Ali)

Under Secretary to the Government of India