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F.No. 371/63/B/13-RA
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

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

Date of Issue.. 6-1-14..

Order No. 20 /14-cus dated 03-01- 2014 of the Government of India, passed by Shri D. P. Singh, Joint Secretary to the Government of India, under section 129DD of the Custom Act, 1962.

Subject : Revision Application filed,
under section 129 DD of the Customs Act
1962 against the Order-in-Appeal No.
15/2013-14-Air dated 06-06-2013 passed by the
Commissioner of Customs, (Appeals), Mumbai.

Applicant : Smt. Hina Dilip Kumar Dhakan,
301-302, 3rd Floor,
Vatika Building, B/s Nanavati Bldg.,
Tation Road, Parel (W), Mumbai.

Respondent : Commissioner of Customs,
5th Floor, Avas Corporate Point,
Makhwana Lane, Andheri Kurla Road,
Behind S.M. Centre, Andheri (E),
Mumbai Zone-400059.

ORDER

This revision application is filed by applicant Smt. Hina Dilip Kumar Dhakan, 301-302, 3rd Floor, Vatika Building, B/s Nanavati Bldg., Tation Road, Parel (W), Mumbai against the Order-in-Appeal No. 15/2013-14-Air dated 06-06-2013 passed by the Commissioner of Customs (Appeals), Mumbai Zone-III with respect to Order-in-Original No. 68/2011-12 dated 12-12-2011 passed by Joint Commissioner of Customs CSI Airport, Mumbai.

2. Brief facts of the case are that the applicant arrived at CSI Airport Mumbai from abroad. On suspicion she was diverted to Red Channel by customs officers and her baggage was subjected to detailed examination. On examination of her baggage assorted gold jewellery weighing to 294 gms valued at Rs. 7,35,000/- were recovered. In her voluntary statement recorded under section 108 of Customs Act, 1962, the applicant interalia stated that the impugned jewellery belong to their shop in Dubai and brought to be used by her during wedding ceremony in the family and was to be taken back to their shop in Dubai after use. The gold jewellery imported by the applicant were in trade quantity and commercial in nature. Import of gold jewellery in trade quantity that too undeclared does not constitute a part of bonafide baggage in terms of section 79 of Customs Act, 1962 and violates the provisions of Baggage Rules 1998, section 77,79,11 of Customs Act, 1962, para 2.20 of Exim Policy 2009-2014 and also the provision of section 3 (3) of Foreign Trade (Development and Regulation) Act, 1992. The adjudicating authority after following due process of law confiscated the said goods under section 111 (d) (l) & (m) of Customs Act, 1962. However, an option to redeem the same on payment of redemption fine of Rs. 1,50,000/- for export was given to the said passenger under section 125 of Customs Act, 1962. A penalty of Rs. 20,000/- was also imposed on the said passenger under section 112 of Customs Act, 1962.

3. Being aggrieved by the said order-in-original, applicant filed appeal before Commissioner (Appeals), who rejected the appeal.

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 mainly on the following grounds:

4.1 The gold jewellery imported by the applicant was taken out the jewellery from her own shop in Dubai and brought for use in the family wedding and then to be taken back. There was no motive to make profit. The redemption fine and personal penalty imposed by the lower authorities is harsh and may be reduced.

5. Personal hearing was scheduled in this case on 23-12-2013. Shri P.K.Singrani , Advocates attended hearing on behalf of the applicant who reiterated the grounds of Revision Application.

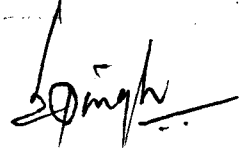
6. Government has carefully gone through the relevant case records and perused the impugned Order-in-Original and Order-in-Appeal.

7. On perusal of records, Government observes that the applicant had imported gold jewellery in trade quantity through baggage and did not declare the same in terms of section 77 of Customs Act, 1962. Since the gold jewellery was in trade quantity that too undeclared so the same cannot be treated as bonafide baggage in terms of section 79 of Customs Act, 1962. and violates the provisions of Baggage Rules, 1998, section 77,79,11 of Customs Act, 1962, para 2.20 of Exim Policy 2009-2014 and also the provision of section 3 (1) and 11(1) of Foreign Trade (Development and Regulation) Act, 1992. The adjudicating authority after following due process of law confiscated the said goods under section 111 (d) (l) & (m) of Customs Act, 1962. However, an option to redeem the same on payment of redemption fine of Rs. 1,50,000/- for re export was given to the said passenger under section 125 of Customs Act, 1962. A penalty of Rs. 50,000/- & 20,000/- was also imposed on the said passenger under section 112 and 114AA of Customs Act, 1962 respectively. In appeal the Commissioner (Appeals) rejected the appeal. The applicant has pleaded to reduce the redemption fine and personal penalty. Government notes that lower authorities have accepted that said jewellery was

brought for wearing in wedding and then to be re exported. In view of said circumstances re exported was allowed. Government notes that redemption fine imposed in this case is 20% of the value of offending goods which can be reduced as re export of goods is allowed in this case. As such the redemption fine is reduced to Rs. 100000/-. The penalty imposed by original authority under section 112 of Customs Act, 1966 will meet the ends of justice and therefore penalty imposed under section 114A of Customs Act is set aside. The impugned Order-in-Appeal is modified to this extent.

8. Revision Application is disposed off in above terms.

9. So, ordered.

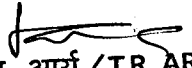


(D.P. Singh)

Joint Secretary to the Govt. of India

Smt. Hina Dilipkumar Dhakan,
301-302, 3rd Floor,
Vatika Building, B/s Nanavati Bldg.,
Tation Road, Parel (W), Mumbai.

ATTESTED




(टी. आर. आर्य / T.R. ARYA)
अधीक्षक, आर.ए / Superintendent
वित्त मंत्रालय, (राजस्व विभाग)
Ministry of Finance, (Deptt. of
भारत सरकार / Govt. of India
नई दिल्ली / New Delhi

Order No. 20/14-Cx dated 3-1-2014

Copy to:

1. Commissioner of Customs, 5th Floor, Avas Corporate Point, Makhwana Lane, Andheri Kurla Road, Behind S.M. Centre, Andheri (E), Mumbai Zone-400059.
2. The Commissioner of Customs, (Appeals), 5th Floor, Avas Corporate Point, Makhwana Lane, Andheri Kurla Road, Behind S.M. Centre, Andheri (E), Mumbai Zone-400059.
3. Joint Commissioner of Customs, CSI Airport, Mumbai.
4. P.K.Singrani, Advocate, High Court, Vivek Society, 6th Floor, R. No. 334, New MIG Colony, Bandra (E), Mumbai-51.
5. PS to JS(RA)
6. Guard File.
7. Spare Copy

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(T.R.Arya)

SUPRINTENDENT (REVISION APPLICATION)

