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GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

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

F. No. 373/127/B/13-RA / 4024 Date of Issue 26.07.2020

ORDER NO. 20/2020-CUS (SZ) / ASRA / MUMBAI / DATED 05.07.2020 OF
THE GOVERNMENT OF INDIA PASSED BY SMT. SEEMA ARORA,
~~PRINCIPAL COMMISSIONER & EX-OFFICIO ADDITIONAL SECRETARY TO~~
THE GOVERNMENT OF INDIA, UNDER SECTION 129DD OF THE
CUSTOMS ACT, 1962.

Applicant : Shri. Golandaz Shaheed Mazhar

Respondent : Commissioner of Customs(Airport), Hyderabad.

Subject : Revision Application filed, under Section 129DD of the
Customs Act, 1962 against the Order-in-Appeal No.
35/2013 (H -II) Cus dated 16.07.2013 passed by the
Commissioner of Customs, Central Excise and Service
Tax (Appeals-II) Hyderabad.



ORDER

This revision application has been filed by Shri. Golandaz Shaheed Mazhar against the order in appeal no.35/2013 (H -II) Cus dated 16.07.2013 passed by the Commissioner of Customs, Central Excise and Service Tax (Appeals-II) Hyderabad.

2. Briefly stated facts of the case are that the applicant, an Indian National had arrived at the Rajiv Gandhi International Airport on 30.11.2011. He was intercepted at the exit and examination of his baggage resulted in recovery of 9555 nos of SD Micro memory cards concealed in an emergency lamp and plastic jar. 10 Rhoduna chemical bottles, Two cartons of Gudam Garam cigarettes totally valued at Rs. 43,49,425/- (Rupees Forty three lacs Forty nine thousand Four hundred and Twenty five). The Original Adjudicating Authority, vide his order 98/2012-Adjn (CUS) ADC dated 30.11.2012 held the goods liable for confiscation but allowed redemption of the same on payment of a redemption fine of Rs. 6,00,000/- (Rupees six lacs). A Penalty of Rs. 2,00,000/- under Section 112 (a) of the Customs Act, 1962 was also imposed on the Applicant.

3. Aggrieved by this order the Applicant filed an appeal with the Commissioner of Customs, Central Excise and Service Tax (Appeals-II) Hyderabad. The Commissioner (Appeals), vide his order no.35/2013 (H -II) Cus dated 16.07.2013 rejected the Appeal for non compliance of section 129E of the Customs Act, 1962.

4. The applicant has filed this Revision Application inter alia on the following grounds that;

4.1. The Applicant submits that the findings and order passed by the respondent are bad in law, illegal unjust unfair and in violation of principles of natural justice.

4.2. The Applicant has suffered enough due to this case and has been financially ruined and is facing financial hardship.



4.3 The Applicant is unable to pay the predeposit of penalty amount of Rs.2,00,000/- due to serious financial problems.

4.4 The insistence of predeposit of penalty would cause grave hardship and may result in the denial of justice and no prejudice will be caused to the department if this application is allowed.

4.5 The Applicant has got a good prima facie case on merits and he has a fair chance of success in the appeal.

4.6 Any insistence to pay the penalty amount would not only cause undue hardship, but whittle down the right of appeal, as he is not in a position to pay the penalty amount or part thereof.

The Revision Applicant that the predeposit of penalty be waived and the Revision Appeal be heard on merits, or any such order and further relief as may deem fit and proper.

5. Personal hearings in the case were scheduled to be held on 12.12.2017, 30.08.2019, 05.11.2019. Nobody from the department or the Applicant attended the said hearings. The case is therefore being decided ex-parte on merits.

6. The Government has gone through the facts of the case. The Applicant has pleaded that he is not in a position to pay the predeposit and prays for deciding the case on merits. The department has not opposed the Appeal and no prejudice will be caused to the department if this application is taken on merits. Under the circumstances the Government in the interest of justice proceeds to decide the case on merits. It is seen that the Applicant was intercepted at the exit. He had not declared the items under seizure and if he was not intercepted would have succeeded in clearing the goods without the payment of customs duty. Non-declaration as mandated under Section 77 of the Customs Act, 1962 has rendered the goods liable for confiscation. Government further observes that the adjudicating authority has rightly held the goods liable for confiscation. The redemption fine of Rs. 6,00,000/- (Rupees six lacs) on goods valued at Rs. 43,49,425/- (Rupees Forty three lacs Forty nine thousand Four hundred and Twenty five) and Penalty of Rs. 2,00,000/- (Rupees Two lacs) is reasonable is



reasonable and does not require interference. The Revision Application is liable to be dismissed.

7. Taking into consideration the foregoing discussion, Government upholds the Order in Original 98/2012-Adjn (CUS) ADC dated 30.11.2012.

8. Revision Application is dismissed.

9. So, ordered.



(SEEMA ARORA)

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

ORDER No. /2020-CUS (SZ) /ASRA/

DATED 01.12.2020

To,

Shri Golandaz Shaheed Mazhar
At and Post Rajpuri, Tal Murud,
Dist, Raigadh, Maharashtra - 402 405.

Copy to:

1. The Commissioner of Customs, Rajiv Gandhi International Airport, Shamshabad, Hyderabad.
2. Sr. P.S. to AS (RA), Mumbai.
3. ~~Guard File.~~
4. Spare Copy.

ATTESTED

B. LOKANATHA REDDY
Deputy Commissioner (R.A.)

