



GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
8th Floor, World Trade Centre, Centre - I, Cuffe Parade,
Mumbai-400 005

F.No. 373/163/B/15-RA / 4684

Date of Issue 02.09.2024

ORDER NO 261/2021-CUS (SZ)/ASRA/MUMBAI DATED 23.08.2021 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 K. K. Thajudeen

Respondent : Commissioner of Customs (Airport), Cochin.

Subject : Revision Application filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal No. COC-CUSTM-000-APP-318-13-14 dated 07.01.2014 passed by the Commissioner of Customs (Appeals), Cochin.

ORDER

This revision application has been filed by Shri K. K. Thajudeen (herein after referred to as the Applicant) against the Order in appeal No. COC-CUSTOM-000-APP-318-13-14 dated 07.01.2014 passed by the Commissioner of Customs (Appeals), Cochin.

2. Based on specific intelligence, the Officers of the Directorate of Revenue Intelligence (DRI), Cochin intercepted Shri K. K. Thajudeen arriving from Colombo at the exit of the arrival hall. When he was intercepted a person, who was later identified as Shri Kamaludeen, was also taken into custody, as he was trying to hurriedly move out of the arrival hall. Detailed examination of his checked in baggage resulted in the recovery of forty bundles of fake Indian currency notes with face value of Rs. 19,99,500/- and other miscellaneous items. The smuggling of the fake currency was planned and executed by Shri Kamaludeen alongwith one Shri Mohammed Rafi.

3. The Original Adjudicating Authority vide Order-In-Original No. 143/2010 dated 01.09.2010 ordered absolute confiscation of the fake currency and imposed penalty of Rs. 5,00,000/- (Rupees Five lakhs) each on the Applicant, Shri Kamaludeen and Shri Mohammed Rafi under Section 112 (a) of the Customs Act, 1962.

4. Aggrieved by the said order, the applicant filed an appeal before the Commissioner (Appeals) on the grounds that the Order-in-Original the Adjudicating Authority's order was not legal, as the SCN ought to have been issued by the Customs Department instead of DRI which was not correct, that the appellant became a scapegoat at the hands of racketeers due to his poverty, that the imposition of such high penalty on appellant was not reasonable and prayed for the impugned order to be set aside. The Commissioner (Appeals) vide Order-In-Appeal No. COC-CUSTOM-000-APP-318-13-14 dated 07.01.2014 rejected the Appeal.

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

- 5.1 The Orders passed by the Respondents No.1 (OiO) and 2 (OiA) are wrong, contrary to law and facts of the case.
- 5.2 The Respondent No. 2 ought to have appreciated the facts of the case and came to a conclusion that the Applicant did not have conscious possession and he became a victim of circumstances due to poverty. The Respondent No. 2 ought not have imposed such a huge penalty on the Applicant.
- 5.3 The Respondent No. 1, instead of re-iterating the finding of Respondent No. 2, ought to have examined the facts of the case on the available materials and came to an independent conclusion. The Respondent No. 1 ought to have held that there was no conscious possession and the Applicant became a scape goat of the circumstances, and reduced the penalty.
- 5.4 Under any circumstance, the penalty imposed is highly excessive.
6. Personal hearings in the case were scheduled on 05.07.2018, 04.03.2021, 12.03.2021, 08.04.2021, 15.04.2021, 02.07.2021, and 16.07.2021. However there was no response from the Applicant nor the Department. The case is therefore being decided on the basis of existing records on merits.
7. It is not disputed that the fake currency was being smuggled into the country. The Applicant's main grounds are that he was not aware of the contents of the baggage carried by him as it was not revealed to him, even when he specifically enquired about the same. In his statements he was given a remuneration of Rs. 25,000/- to carry the baggage to Kerala by Shri Kamaludeen. Being jobless and in financial difficulties he accepted the assignment.
8. The Government has perused the case records carefully. Government observes that the Applicant has in his statements at the time of the seizure has revealed that this was not the first time he was involved in the smuggling fake currency. It is also noted that though the Applicant may not have been aware that he was carrying fake currency on his first visit, as per his statement, but he was informed of the same after he collected his remuneration for the earlier smuggling assignment, for which he received a remuneration in Dirhams equivalent to Rs.

25,000/- . He was very well aware that he was carrying fake Indian currency when he was intercepted on 03.05.2008. Government observes that the investigations conducted in the case has confirmed the participation of Applicant in the smuggling racket, through the statement of Shri Kamaludeen. Further involvement of the Applicant has also been confirmed through the entries in his passport, verifications/investigations carried out through Sri Lankan Customs authorities and the employees of the M/s Hotel Royal Wings, Nedumbassery where they had sojourned and the call details of the Applicant and Shri Kamaludeen. The investigations conducted have corroborated the statements given by the Applicant and Shri Kamaludeen. The facts of the case clearly bring out the Applicant's conscious involvement in the case for monetary gains and the reasons put forth by the Applicant in his revision Application do not stand up for scrutiny when correlated with the facts of the case. In view of the above the Revision application is liable to be dismissed.

12. The Revision Application is accordingly dismissed.

Shrawan
25/8/21
(SHRAWAN KUMAR)
Principal Commissioner & ex-officio
Additional Secretary to Government of India

ORDER No 201/2021-CUS (SZ) /ASRA/MUMBAI

DATED 25/8/2021

To,

1. Shri K. K. Thajudeen, S/o Late Mohammed Kunhi, Kammadath House, Parrappa, Kasargode District.
2. The Commissioner of Customs, Custom House, Cochin.

Copy to:

3. Sr. P.S. to AS (RA), Mumbai.
4. Guard File. ,
5. Spare Copy.