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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. 371/36/B/15-RA / 49
F. No. 371/41,42 & 43/B/16-RA

Date of Issue : 05/01/2021

²¹³⁻²¹⁶
ORDER NO. /2020-Cus (WZ) / ASRA / MUMBAI/ DATED 06.12.2020 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 Karl Pandey

Respondent : Commissioner of Customs, Mumbai.

Subject : Revision Applications filed, under Section 129DD of the
Customs Act, 1962 against
Order-in-Appeal No. MUM-CUSTOM-PRV-APP/22/15-16
dated 09.04.2015,
Order-in-Appeal No. MUM-CUSTOM-PRV-APP/721-722/15-
16 dated 17.03.2016
Order-in-Appeal No. MUM-CUSTOM-PRV-APP/736-737/15-
16 dated 30.03.2016
Order-in-Appeal No. MUM-CUSTOM-PRV-APP/734-735/15-
16 dated 30.03.2016
all passed by the Commissioner of Customs (Appeals),
Mumbai -III.

ORDER

These four Revision Applications have been filed by Shri Karl Pandey (hereinafter referred to as "the Applicant") against Orders-in-Appeal No. MUM-CUSTOM-PRV-APP/22/15-16 dated 09.04.2015, No. MUM-CUSTOM-PRV-APP/721-722/15-16 dated 17.03.2016, No. MUM-CUSTOM-PRV-APP/734-735/15-16 dated 30.03.2016, and No. MUM-CUSTOM-PRV-APP/736-737/15-16 dated 30.03.2016 all passed by the Commissioner of Customs (Appeals), Mumbai -III.

2. The issue briefly is, the Mumbai Zonal Unit of the Directorate of Revenue Intelligence (hereinafter referred as DRI) developed an intelligence that certain importers had been importing motorcycles (also known in commercial parlance as 'Super Bikes') of international brands such as Honda, Suzuki, Yamaha, Harley Davidson, Kawasaki, etc by first disassembling them abroad and importing the disassembled motorcycle parts in more than one consignment by declaring the goods as 'Parts of motorcycle'. After Customs clearance, importers re-assembled these parts again to form the complete motorcycle and sell the same to their customers. The importers were clearing these consignments of motorcycle parts on payment of Basic Custom Duty @ 7.5% to 10% ad valorem + other Customs duties on their individual values (of the parts), whereas the Customs duty on complete motorcycle was payable @ 100% Basic Customs duty ad valorem and other Customs duties, on full value. Intelligence also indicated that forged Bills of Entry were prepared showing import of fully assembled motorcycles for the purpose of registration of such re-assembled motorcycles and local taxes such as road tax, octroi, sales tax, etc. were also evaded. Intelligence further indicated that importers obtained photocopies of the passports of several needy persons, who were largely unaware of the misuse of their passport for paltry consideration and the same were then used for preparing forged Bills of Entry in the names of these persons.

3. The investigations conducted by DRI resulted in the seizure of four motorcycles. The Applicant was aware that the motorcycles were illegally imported but dealt with the sale of the impugned motorcycles.

4. After due process of the law the original adjudicating authority vide its order nos. JC/R & I/JS/01/2014-15 dated 30.04.2014, JC/R&I/JS//41/2014-15 dated 27.08.2014, JC/R & I/JS/04/2014-15 dated 19.05.2014 and ADC/R & I/ AK/05/2014-15 dated 20.05.2014, assessed the values of the motorcycles as complete motorcycles. The motorcycles were held liable for confiscation but were allowed redemption under section 125(1) of the Customs Act, 1962. Penalty of Rs. 1,00,000/- (Rupees One lac) was imposed on the Applicant in each of the above four cases vide the above four orders. Penalties as applicable were also imposed on all the other persons involved in the alleged import.

5. Aggrieved by this order the applicant filed an appeal with the Commissioner of Customs (Appeals), the Commissioner (Appeals) vide the Orders-in-Appeal No. MUM-CUSTOM-PRV-APP/22/15-16 dated 09.04.2015, No. MUM-CUSTOM-PRV-APP/721-722/15-16 dated 17.03.2016, No. MUM-CUSTOM-PRV-APP/734-735/15-16 dated 30.03.2016, and No. MUM-CUSTOM-PRV-APP/736-737/15-16 dated 30.03.2016 rejected the appeal of the Applicant.

6. Aggrieved with the above orders the Applicant, has filed these four revision applications for setting aside the penalties imposed.

7. The Government has examined the matter and it is observed that the motorcycle parts were imported under cover of Bills of Entry which were filed under Section 46 of the Customs Act, 1962 for clearance of the same. Whereas, as per first proviso to Section 129A read with Section 129DD of Customs Act, 1962, a revision application can be filed before the Government against the order-in-appeal if it relates to the issue of baggage, drawback of duty and short landing of the goods. But no such issue is involved in the above mentioned order-in-appeals and the dispute is regarding import of the

motorcycle parts as normal cargo. Therefore, the Government does not have jurisdiction to deal with these Revision Applications.

8. In view of above discussions, Government is of opinion that the issue involved in this case does not fall within the jurisdiction of this authority and hence, the issue is required to be agitated before the proper legal forum, i.e. Tribunal if the Applicant deems fit to do so. The revision application is thus not maintainable before this authority for want of jurisdiction in terms of Section 129A read with Section 129DD of the Customs Act, 1962.

9. The revision applications, thus stands rejected as being non-maintainable for lack of jurisdiction.

Shrawan
16/12/2020

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

²¹³⁻²¹⁶
ORDER No. /2020-CUS (WZ) /ASRA/ DATED 16.12.2020

To,

Shri Karl Pandey,
643, Gulshan Terrace, 2nd Floor, 9th Floor, Parsee Colony, Dadar East,
Mumbai - 400 014.

Copy to:

1. The Commissioner of Customs, CSI Airport, Mumbai.
2. Sr. P.S. to AS (RA), Mumbai.
3. Guard File. ,
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