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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. 373/84,169 & 170/B/16-RA /238

Date of Issue 03/05/2018

ORDER NO. ²³¹⁻²³³ /2018-CUS (SZ) / ASRA / MUMBAI/ DATED 27.04.2018 OF THE
GOVERNMENT OF INDIA PASSED BY SHRI ASHOK KUMAR MEHTA , PRINCIPAL
COMMISSIONER & EX-OFFICIO ADDITIONAL SECRETARY TO THE
GOVERNMENT OF INDIA, UNDER SECTION 129DD OF THE CUSTOMS ACT,
1962.

Applicant : Shri Navin Arjan Rangiramani
: Smt. Neha Hitesh Sharma
: Smt. Jyoti Naresh Murpani

Respondent : Commissioner of Customs (Airport), Chennai.

Subject : Revision Application filed, under Section 129DD of the
Customs Act, 1962 against the Order-in-Appeal No. 161/2016
dated 31.03.2016, 257 & 258/2016 dated 28.06.2016 passed
by the Commissioner of Customs (Appeals-I) Chennai



ORDER

These revision applications has been filed by Shri Navin Arjan Rangiramani Smt. Neha Hitesh Sharma and Smt. Jyoti Naresh Murpani against the Order in Appeal no 161/2016 dated 31.03.2016²⁵⁷ & 258/2016 dated 28.06.2016 passed by the Commissioner of Customs Excise (Appeals-I) Chennai. Since a common issue is involved in all these Revision Applications and as they are being represented by the same advocate Shri Palanikumar, these Revision Applications are being disposed by a common order.

2. Briefly stated facts of the case are that on 19.01.2015 two domestic passengers Smt. Neha Hitesh Sharma and Smt. Jyoti Naresh Murpani arrived from Singapore via Tiruchirapally. They were intercepted as they were attempting to pass through the green channel. Both the passengers did not declare any dutiable items in their declaration slips. A personal search resulted in the recovery of 714 gms of gold from Smt. Neha Hitesh Sharma and 590 gms of gold from Smt. Jyoti Naresh Murpani. Both these passengers had concealed the gold in their rectums. Both these passengers stated that the gold was given to them at Trichy by one Shri Navin Arjan Rangiramani who had travelled in the same flight from Singapore after they had boarded the flight at Trichy, informing them that since they were domestic passengers they will not be subjected to customs check. After due process of the law the Original Adjudicating vide his order No. 442/22.01.2016 absolutely confiscated the gold totally weighing 1304 gms valued at Rs. 36,31,640/- (Rupees Thirty Six Lacs Thirty one thousand Eight hundred) referred to above under section 111(d) and 111(l) of the Customs Act, 1962. A Penalty of Rs. 9,00,000/- under Section 112 (a) of the Customs Act, 1962 was also imposed on the Applicant and Penalty of Rs. 3,65,000/- each was also imposed on Smt. Neha Hitesh Sharma and Smt. Jyoti Naresh Murpani respectively.

3. Aggrieved by this order the Applicants filed an appeal with the Commissioner of Customs (Appeals-I) Chennai. The Commissioner of Customs (Appeals-I) Chennai, vide his Order in Appeal 161/2016 dated 31.03.2016²⁵⁷ rejected the Appeal. ^{258/2016 dtd. 28.6.2016}

4. The applicant has filed this Revision Application interalia on the grounds that:

4.1. The order of the Commissioner (Appeals) is against law, weight of evidence and circumstances and probabilities of the case; The Adjudication

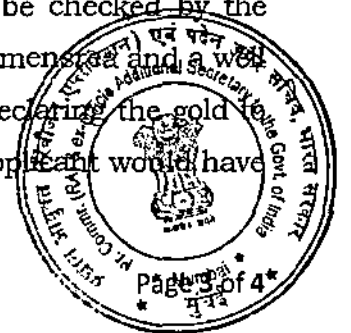


Authority has simply glossed over the judgments and points raised in the Appeal grounds; The Gold does not belong to the Applicants but to one Shri Dharmendra Jain of Singapore; Shri Navin Arjan Rangiramani was to be paid Rs. 35,000/- for the job but was afraid of getting caught so he took the help of the lady friends Smt. Neha Hitesh Sharma and Smt. Jyoti Naresh Murpani; paras 16 on page 13 and para 15 on page 12 of the Adjudication order have nothing to do with this case and have still been used is a complete non-application of mind. That as he is not liable for any penalty under section 112(a) and (b) as the SCN is not sure under which subsection penalty is penalty is proposed against him.

4.2 The Revision Applicant finally stated that the Revisionary authority may be pleased to set aside the impugned order and set aside the penalty under section 112 (a) and (b) and thus render justice.

5. A personal hearing in the case was held on 19.04.2018, the Advocate for the respondent Shri Palanikumar re-iterated the submissions filed in Revision Application and requested for setting aside the penalty under section 112 (a) and (b). Nobody from the department attended the personal hearing.

6. The Government has gone through the case records it observed that the Applicant and his two lady co-conspirators had entered into a conspiracy to smuggle the gold into India. Shri Navin Arjan Rangiramani travelled with the Gold into the country and handed over the gold to the other two lady conspirators, Smt. Neha Hitesh Sharma and Smt. Jyoti Naresh Murpani who concealed the gold in their rectums to avoid detection by the Customs Authorities. It was an attempt made with the intention to hoodwink the customs authorities. In his statement before the Customs Authorities Shri Navin Arjan Rangiramani stated that as he was afraid of being caught and therefore he took the help of these two ladies to conceal and bring the gold out of the Customs area. It is clear that he is complicit in the crime and transferring the ownership of the gold to some body else in Singapore does not absolve him of the crime. Similarly, Smt. Neha Hitesh Sharma and Smt. Jyoti Naresh Murpani became accomplices by concealing the gold. The modus operandi of transferring the gold to domestic passengers under the belief that they will not be checked by the Customs and concealing the gold in their rectums clearly indicates mens rea and a well thought out strategy, and that the Applicant had no intention of declaring the gold to the authorities and if he was not intercepted before the exit, the Applicant would have



taken out the gold biscuits without payment of customs duty. There is no doubt about the fact that the Applicant has contravened the provisions of Customs Act, 1962 and therefore, the seized gold is liable for absolute confiscation. In view of the above mentioned observations the Government is inclined to agree with the Order in Appeal and the penalty imposed vide the impugned order. Hence the Revision Application is liable to be rejected.

8. Taking into consideration the foregoing discussion, Government upholds the Order in Appeal No. 161/2016 dated 31.03.2016, 257 & 258/2016 dated 28.06.2016.

9. Revision Application is dismissed.

10. So, ordered.

Ashok Kumar Mehta
27.4.2018
(ASHOK KUMAR MEHTA)

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

ORDER No. ²³¹⁻²³³ /2018-CUS (SZ) /ASRA/MUMBAI

DATED 27.04.2018

To,

Shri Navin Arjan Rangiramani
C/o S. Palanikumar, Advocate,
No. 10, Sunkurama Chetty Street,
Opp High court, 2nd Floor,
Chennai 600 001.

True Copy Attested

S. Sankarsan Munda
27/4/18
SANKARSAN MUNDA
Asstt. Commissioner of Custom & C. Ex.

Copy to:

1. Commissioner of Cus (Airport), Chennai
2. Commissioner of Customs (Appeals-I) Chennai.
3. Sr. P.S. to AS (RA), Mumbai.
4. Guard File.
5. Spare Copy.

