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SPEED POST



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

F.No. 373/78/B/15-RA / 4802

Date of Issue 04/11/19

ORDER NO. 28/2019-CUS (SZ)/ASRA/MUMBAI DATED 14.10.2019 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 : Smt. Arasu Pillai Manjula

Respondent : Commissioner of Customs, Chennai.

Subject : Revision Application filed, under Section 129DD of the
Customs Act, 1962 against the Order-in-Appeal C.Cus-I
No. 61/2014 dated—19.11.2014 passed by the
Commissioner of Customs (Appeals-I), Chennai.

ORDER

This revision application has been filed by Smt. Arasu Pillai Manjula (herein after referred to as the Applicant) against the order in appeal C.Cus-I No. 61/2014 dated 19.11.2014 passed by the Commissioner of Customs (Appeals-I), Chennai.

2. Briefly stated the facts of the case is that the applicant arrived at the Chennai International Airport on 20.10.2013. She was intercepted as she was attempting to pass through the green channel. Examination of her person resulted in the recovery of a gold chain and five gold bangles and two bangles were recovered from her hand bag, totally weighing 262 gms valued at Rs. 8,14,034/- (Rupees Eight Lacs Fourteen thousand and Thirty Four). Apart from the above the Applicant had imported 3 (three) Sony Bravia TVs and one decorative fan.

3. The Original Adjudicating Authority vide Order-In-Original No. 1217/2013 ordered absolute confiscation of the impugned gold under Section 111 (d) and (l) of the Customs Act, 1962. The 3 (three) TVs and one decorative fan were confiscated but allowed redemption on payment of a redemption fine of Rs. 52,500/- (Rupees Fifty two thousand five hundred) and imposed penalty of Rs. 2,00,000/- (Rupees Two lacs) under Section 112 (a) of the Customs Act.

4. Aggrieved by the said order, the applicant filed appeal before the Commissioner (Appeals) who vide Order-In-Appeal No. C.Cus-I No. 61/2014 dated 19.11.2014 rejected the appeal of the applicant.

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

5.1 The order of the appellate authority is contrary to the law, weight of evidence and violates the principle of natural justice; The lower authority has failed to see that the Applicant proceeded towards the red channel; The Appellant was wearing the gold and it was visible to the naked eye and therefore it amounts to declaration, under section 77 of the Customs Act; the appellant did not cross the customs barrier; the personal effects includes any article contained in the baggage even

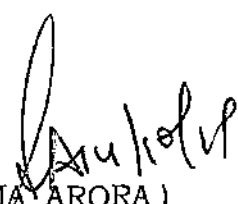
though it is in commercial quantities; Just because the gold was more than 22 carat, it cannot be considered as crude; The lower authority ought not to have rejected the request for re export of the gold ornaments because the gold ornaments were seized from her person. She was wearing the same and was visible to naked eye and it amounts to declaration under section 77 of the Customs Act; Under the circumstances the officer should have detained the goods under Section 80 of the Customs Act when the goods are not allowed for import; The Lower authority ought to have seen that the bonafide baggage comes in to picture only to claim free allowance; The lower authority ought not to have imposed the penalty when the ingredients of section 112(a) of Customs Act itself not proved in this case and when there is no mensrea on the part of the appellant.

5.2 The Applicant submitted case law in favor of his case and prayed for setting aside the absolute confiscation of the gold and allow re-export, and reduce the redemption fine and penalty considering drastic reduction of the price of the goods and thus render justice.

6. A personal hearing in the case was scheduled in the case on 01.10.2019, the Advocate for the Applicant Shri A. Ganesh appeared for the Applicant and submitted that there was no concealment, which has been recorded in the order in original. Nobody from the department attended the hearing.

7. The Government has gone through the facts of the case. Government notes that the Applicant is involved in the business of trading ie she purchases goods from India and sells them in Malaysia and vice versa. Having been to India earlier, she is aware of the rules governing import and therefore should have declared the gold on her arrival before the Customs authorities. The gold was not declared as required under section 77 of the Customs Act,1962. When questioned she denied as to whether she carried dutiable items she replied in the negative. Further the order in Appeal also notes that the Applicant is a repeat offender and has been involved in eight offences earlier. This is a serious issue and the law should be a deterrent in such cases.

8. In view of the above facts, the Government upholds the Appellate order. The revision application is liable to be dismissed.
9. The revision application is accordingly dismissed.
10. So ordered.


(SEEMA ARORA)
Principal Commissioner & ex-officio
Additional Secretary to Government of India

ORDER No. 28/2019-CUS (SZ) /ASRA/

DATED 14.10.2019

To,

Smt. Arasu Pillai Manjula
B/14, Cholan Nagar, Pillaiyar Patti, Vallam Taluk, Thanjavur-613 001.

Copy to:

1. The Commissioner of Customs, Anna International Airport, Chennai.
2. Shri A. Ganesh, Advocate, F. Block179, IV Street, Annanagar, Chennai 600 102
3. Sr. P.S. to AS (RA), Mumbai.
4. Guard File.
5. Spare Copy.