



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

F.No. 373/276/B/14-RA (w⁹)

Date of Issue 29/05/2018.

ORDER NO. 284/2018-CUS (SZ) / ASRA / MUMBAI/ DATED 03.05.2018 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 : Smt. Bishrul Hafir Fathima Mirzana

Respondent : Commissioner of Customs(Airport), Chennai.

Subject : Revision Application filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal C.Cus No. 836/2014 dated 08.05.2014 passed by the Commissioner of Customs (Appeals) Chennai.



ORDER

This revision application has been filed by Shri Bishrul Hafir Fathima Mirzana (herein after referred to as the Applicant) against the order no C. Cus No. 836/2014 dated 08.05.2014 passed by the Commissioner of Customs (Appeals), Chennai.

2. Briefly stated the facts of the case is that the applicant, a Sri Lankan national, had arrived at the Chennai Airport on 06.01.2013. She was intercepted at the Green Channel as she was walking through the exit. Examination of her person resulted in the recovery of two gold chains worn on her neck and 6 gold bangles, totally weighing 400 grams valued at Rs. 12,32,400/- (Rupees Twelve lacs Thirty two thousand and Four hundred).

3. The Original Adjudicating Authority vide Order-In-Original No. 135 dated 20.02.2014 ordered for absolute confiscation of the impugned goods under Section 111 (d) and (l) of the Customs Act read with Section 3 (3) of Foreign Trade (Development & Regulation) Act and imposed penalty of Rs. 1,50,000/- 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 No. 836/2014 dated 08.05.2014 rejected the appeal of the applicant.

5. The applicant has filed this revision application on the grounds that ;

5.1. That the order of the appellate authority is against law, weight of evidence and circumstances and probabilities of the case; She was wearing the gold chain and bangles at the time of interception, the jewelry was old and used; The Applicant being a foreigner the question of eligibility does not arise; She informed the officers that the gold jewelry belongs to her and that she used to wear the same; The gold chain was worn and it was visible and hence the question of declaration does not arise; Even assuming without admitting that he did not declare the gold it is only a technical fault; She never concealed the ornaments; She was not aware of Indian Law;

5.2 The Applicant further pleaded that as per the circular 394/71/97-CUS (AS) GOI dated 22.06.1999 states that arrest and prosecution need not be considered in routine in respect of foreign nationals and NRIs who have inadvertently not declared; the Hon'ble Supreme Court has in the case of Om Prakash vs Union of India stated that the main object of the Customs Authority is to collect the duty and not to punish the person for infringement of its provisions; ; CBEC circular 9/2001 gives specific directions stating that a



10. Taking into consideration the foregoing discussion, Government allows redemption of the confiscated gold for re-export in lieu of fine. The gold jewelry weighing 400 grams valued at Rs. 12,32,400/- (Rupees Twelve lacs Thirty two thousand and Four hundred) is ordered to be redeemed for re-export on payment of redemption fine of Rs. 4,00,000/- (Rupees Four Lakhs) under section 125 of the Customs Act, 1962. Government also observes that the facts of the case justify reduction in the penalty imposed. The penalty imposed on the Applicant is therefore reduced from Rs. 1,50,000/- (Rupees One lac Fifty thousand) to Rs. 80,000/- (Rupees Eighty thousand) under section 112(a) of the Customs Act,1962.

11. The impugned Order in Appeal stands modified to that extent. Revision application is partly allowed on above terms

12. So, ordered.

(Handwritten Signature)
D.S. 18

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

ORDER No. 284/2018-CUS (SZ) /ASRA/ MUMBAI

DATED 03-05-2018

To,

Shri Bishrul Hafir Fathima Mirzana
C/o S. Palanikumar, Advocate,
No. 10, Sunkurama Chetty Street,
Opp High court, 2nd Floor,
Chennai 600 001.

Copy to:

1. The Commissioner of Customs, Anna International Airport, Chennai.
2. The Commissioner of Customs (Appeals), Custom House, Chennai.
3. Sr. P.S. to AS (RA), Mumbai.
4. Guard File.
5. Spare Copy.

True Copy Attested

(Handwritten Signature)
SANKARSAN MUNDA
Asstt. Commissioner of Custom & C. Ex.

