



सत्यमेव जयते

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

F.No. 373/205/B/14-RA / *kgb*

Date of Issue 29/05/2018

ORDER NO. 289/2018-CUS (SZ) / ASRA / MUMBAI/ DATED 04.05.2018 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 : Shri Kullan Velmurugan

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.
144/2014 dated 18.12.2014 passed by the Commissioner of
Customs (Appeals) Chennai.



ORDER

This revision application has been filed by Shri Kullan Velmurugan (herein after referred to as the Applicant) against the order no C. Cus No. 144/2014 dated 18.12.2014 passed by the Commissioner of Customs (Appeals), Chennai.

2. Briefly stated the facts of the case is that the applicant, arrived at the Chennai Airport on 01.11.2014. He was intercepted by the Customs officers and examination of his person resulted in the recovery of one gold bangle weighing 99 grams valued at Rs. 2,46,332/- (Rupees Two lacs Forty Six thousand and Three hundred and Thirty two).

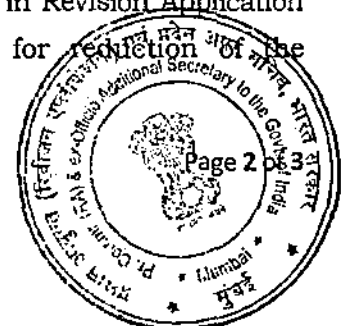
3. The Original Adjudicating Authority vide Order-In-Original No. 1351/2014 Batch A dated 01.11.2014 ordered for absolute confiscation of the impugned goods under Section 111 (d), (l), (m) and (o) of the Customs Act read with Section 3 (3) of Foreign Trade (Development & Regulation) Act and imposed penalty of Rs. 25,000/- under Section 112 (a) of the Customs Act. Aggrieved by the said order, the applicant filed appeal before the Commissioner (Appeals) who vide Order-In-Appeal No. C.Cus No. 144/2014 dated 18.12.2014 set aside the order of absolute confiscation and released the gold on payment of redemption fine of Rs. 70,000/- .

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

4.1. That the order of the appellate authority is against law, weight of evidence and circumstances and probabilities of the case; The Appellate authority has held that the Applicant is eligible for concessional rate of duty and yet duty was collected at the baggage rate @ 36.05% ; he has stayed abroad for 260 days and it can be verified from his passport and he is eligible concessional rate of 10% as per Notification No. 03/2012; he did not admittedly pass through the green channel, He was all along at the red channel under the control of the officers; He had carried foreign currency to pay the duty but the officers detained the gold for adjudication; The gold chain was worn and it was visible and hence the question of declaration does not arise; Goods must be prohibited before import or export simply because of non-declaration goods cannot become prohibited;

4.2 The Revision Applicant cited various assorted judgments in support of re-export and prayed for permission to re-export the gold on payment of nominal redemption fine and reduced personal penalty.

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 cited the decisions of GOI/Tribunals and requested for ~~reduction of the~~



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Redemption fine and penalty. Nobody from the department attended the personal hearing.

6. Government has gone through the facts of the case, the Applicant has requested for reduction of the Redemption fine and penalty on the grounds that the Applicant having spent 260 day abroad was eligible for concessional rate of 10% as per Notification No. 03/2012. The aspect of allowing the gold on concessional rate of duty can be considered if the Applicant had properly declared the gold to the Customs officers and when imports have been made in a legal manner. Government observes that the gold was not declared by the Applicant as required under Section 77 of the Customs Act, 1962. Under the circumstances confiscation of the gold is justified. After deciphering the facts of the case the Appellate authority has rightly allowed the gold to be released on redemption fine and penalty. Government also observes that the redemption fine of Rs. 70,000/- and personal penalty of Rs. 25,000/- is commensurate with the offence committed.

7. The Government therefore finds no reason to interfere with the Order-in-Appeal. The Appellate order C. Cus. No. 144/2014 dated 18.12.2014 passed by the Commissioner of Customs (Appeals), is upheld as legal and proper.

8. Revision Application is dismissed.

9. So, ordered.

Ashok Kumar Mehta
4.5.18

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

ORDER No. 289/2018-CUS (SZ) /ASRA/MUMBAI

DATED 04.05.2018

To,

True Copy Attested

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

Sankar San Munda
4.5.18
SANKARSAN MUNDA
Asstt. Commissioner of Custom & C. Ex.

Copy to:

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