



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

F.No. 373/223/B/14-RA / 490

Date of Issue 29/05/2018

ORDER NO. 293/2018-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 Guggulla Babu

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. 224/2015 dated 28.05.2015 passed by the Commissioner of Customs (Appeals) Chennai.





5.2 The Applicant further submitted that The Hon'ble Supreme Court has in the case of Om Prakash vs Union of India states that the main object of the Customs Authority is to collect the duty and not to punish the person for infringement of its provisions; The CBEC Circular 09/2001 gives specific directions to the Customs officer in case the declaration form is incomplete/not filled;

5.3 The Revision Applicant cited various assorted judgments in support of re-export even when the gold was concealed and prayed for setting aside the impugned order and permission to re-export the gold on payment of nominal redemption fine and reduced personal penalty.

6. 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 where option for re-export of gold was allowed. Nobody from the department attended the personal hearing.

7. The Government has gone through the case records it is observed that the Applicant was given enough opportunities to declare the gold, he however did not declare the gold pieces at the time of interception. The gold pieces were ingeniously concealed in the lining of the clothes carried by the Applicant. There is absolutely no doubt that the concealment was intelligently planned so as to evade Customs duty and to smuggle the gold into India. The aspect of allowing the gold for re-export can be considered when imports have been made in a legal manner and properly declared as per Section 77 of the Customs Act, 1962. The actions of the Applicant indicate that he 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 pieces without payment of customs duty.

8. The above acts have therefore rendered 399.4 gms of seized gold liable for confiscation under Section 111 of Customs Act, 1962 and the Applicant liable for penal action under section 112 (a) of the Customs Act, 1962. The Government therefore holds that the Original Adjudicating Authority has rightly confiscated the gold absolutely and imposed a penalty of Rs. 1,00,000/-. In view of the above discussion, the Government also holds that Commissioner (Appeals) has rightly upheld the order of the original adjudicating authority.

*Dr*



9. The Government therefore finds the Appellate order C. Cus. No. 224/2015 dated 28.05.2015 passed by the Commissioner of Customs (Appeals) as legal and proper does not warrant any interference.

10. Revision Application is dismissed.

11. So, ordered.

*Ashok Kumar Mehta*  
4.5.18

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

ORDER No. 293/2018-CUS (SZ) /ASRA/MUMBAI

DATED 04.05.2018

To,

Shri Guggulla Babu  
C/o S. Palanikumar, Advocate,  
No. 10, Sunkurama Chetty Street,  
Opp High court, 2<sup>nd</sup> 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**

*Sankarsan Munda*  
29/5/18

**SANKARSAN MUNDA**  
Asstt. Commissioner of Custom & C. Ex.

