



सत्यमेव जयते

GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(DEPARTMENT OF REVENUE)  
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Mumbai-400 005

F.No. 373/170/B/14-RA } *W8V*

Date of Issue 29/05/2018

ORDER NO 299/2018-CUS (SZ) / ASRA / MUMBAI/ DATED 22.05.2018 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 Noor Mohamed

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-I No. 165 & 166/2015 dated 30.03.2015 passed by the Commissioner of Customs (Appeals-I) Chennai.



ORDER

This revision application has been filed by Shri Noor Mohamed (herein after referred to as the Applicant) against the order no C. Cus-I No. 165 & 166/2015 dated 30.03.2015 passed by the Commissioner of Customs (Appeals-I), Chennai.

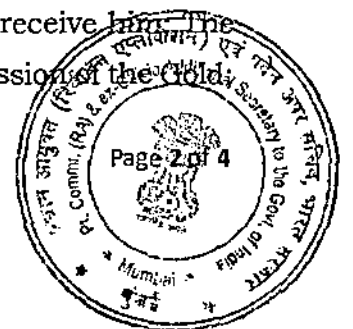
2. Briefly stated the facts of the case is that one Shri Shaikh Hussein Basha arrived at the Chennai Airport on 24.02.2014. He was intercepted by the officers of the Customs as he was walking through the green channel without declaration. Examination of his baggage and person resulted in the recovery of 5 (Five) gold bars and three cut gold pieces totally weighing 1832 gms totally valued at Rs. 56,27,904/- (Rupees Fifty Six lacs Twenty Seven thousand Nine hundred and four ). The gold was ingeniously concealed in two packets kept in specially made pockets stitched on his underwear. The impugned gold was given to Shri Shaikh Hussein Basha by Shri Noor Sulaiman in Kuwait to be handed over to the Applicant, Shri Noor Mohamed.

3. The Original Adjudicating Authority vide Order-In-Original No. 1031 dated 27.12.2014 ordered for absolute confiscation of the impugned gold 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. 5,50,000/- on Shri Shaikh Hussein Basha and penalty of Rs. 2,00,000/- on Shri Noor Mohamed 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. 165 & 166/2015 dated 30.03.2015 rejected the appeal of the applicant.

5. The applicant has filed this Revision Application interalia on the following grounds that;

5.1. The order of the Commissioner (Appeals) is against law, weight of evidence and circumstances and probabilities of the case; The Appellate Authority has not applied his mind and has simply glossed over the judgments and points raised in the Appeal grounds; Deposition of the passenger was retracted by him; he went to the airport to receive him. The Show Cause Notice does not state that he tried to take possession of the Gold.



He had nothing to do with the gold in question; that suspicions however grave cannot be taken as proof; the Adjudication authority's invocation of penalty under section 112 is not right when no act or omission is attributed as he was in no way concerned with the goods; the seizure was made from Shri Shaikh Hussein Basha and there is no evidence against the Applicant.

5.2 In view of the Above the Applicant prayed for setting aside the impugned order and reduce 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 submitted that Revision Application be decided on merits. Nobody from the department attended the personal hearing.

7. The Government has gone through the case records it is observed that the Applicant was aware that Shri Shaikh Hussein Basha was coming and that he had arrived at the Airport to receive the Gold. The Photos of Shri Shaikh Hussein Basha were found on his mobile phone with the words " he is coming" clearly indicating that he had come with the specific purpose. The messages were sent by his brother Shri Noor Sulaiman, the person who has sent the gold through Shri Shaikh Hussein Basha. In his statement he has informed that the gold was sent to him as remuneration for transfer of land inherited by him to Shri Noor Sulaiman. The applicant had concealed 5 gold bars of 1832 gms ingeniously concealed in two packets in the specially made pockets stitched on his underwear and had no intentions to declare the same to Customs Officers and had been caught while attempting to walk through green channel without declaring and in contravention of the provisions of Baggage Rules & Customs Act, 1962.

8. The above acts have therefore rendered the seized gold of 1832 gms liable for confiscation and 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. 2,00,000/-. In view of the above discussions, the Government also holds that Commissioner (Appeals) has rightly upheld the order of the original adjudicating authority.



9. The Government therefore finds the Appellate order C. Cus. No. 165 & 166/2015 dated 30.03.2015 passed by the Commissioner of Customs (Appeals) as legal and proper and does not warrant any interference.

10. Revision Application is dismissed.

11. So, ordered.

*(Handwritten signature)*  
22.5.2018

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

ORDER No. ~~299~~2018-CUS (SZ) /ASRA/MUMBAI

DATED ~~22~~05.2018

To,

Shri Noor Mohamed  
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**

*(Handwritten signature)*  
15/18

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

