



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

F.No. 373/77/B/15-RA/4814

Date of Issue 04.11.19

ORDER NO. 30/2019-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 : Shri Harichandra Anthony Pillai

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. 63/2014 dated 19.11.2014 passed by the Commissioner of Customs (Appeals-I), Chennai.

ORDER

This revision application has been filed by Shri Harichandra Anthony Pillai (herein after referred to as the Applicant) against the order in appeal C.Cus-I No. 63/2014 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, a Sri Lankan citizen, arrived at the Chennai International Airport on 09.07.2014. He was intercepted as he was attempting to pass through the green channel. Examination of his checked in baggage resulted in the recovery of a gold chain and one gold ring totally weighing 139 gms valued at Rs. 3,57,547/- (Rupees Three Lacs Fifty seven thousand Five hundred and Forty seven).

3. The Original Adjudicating Authority vide Order-In-Original No. 1217/2013 ordered confiscation of the impugned gold under Section 111 (d) and (l) of the Customs Act, 1962, but allowed redemption and reshipment on payment of a redemption fine of Rs. 1,20,000/- (Rupees One lac Twenty thousand) and imposed penalty of Rs. 35,000/- (Rupees Thirty five thousand) 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. 63/2014 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 Applicant is an Sri Lankan national; The lower authority has failed to see that the Applicant proceeded towards the red channel; The Appellant did not cross the customs barrier; Baggage is not confined to bonafide baggage within the meaning of section 79 of the Customs Act, the personal effects includes any article contained in the baggage; The Lower authority ought to have allowed re-export without imposing fine or penalty; There is no iota of evidence to prove that the gold was brought for monetary consideration; The redemption fine ought to have been imposed according to the margin of profit; The goods are not prohibited and free for import as per EXIM policy; Under the circumstances the officer should have detained the goods under Section 80 of the Customs Act, confiscation was unwarranted; Personal penalty should not have been imposed when mens rea itself is not made out.


5.2 The Applicant submitted case laws in favor of his case and prayed for setting aside the confiscation of the gold and reduce the redemption fine and penalty 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, The gold should have been detained and the redemption fine and penalty imposed was very high. Nobody from the department attended the hearing.

7. The Government has gone through the facts of the case, The gold was not declared as required under section 77 of the Customs Act, 1962 and therefore confiscation of the gold is justified. However, the facts of the case reveal that the gold chain and the gold ring was recovered from his checked in baggage and there is no allegation of ingenious concealment. There is no past history of such misdemeanors by the Applicant. The ownership of the gold is not disputed and the Applicant is a Sri Lankan native. Under the circumstances the Government upholds the imposition of redemption fine and penalty. The Applicant has pleaded for reduction in redemption fine and penalty, considering the fact that there was no ingenious concealment and unit value of this gold the redemption fine is reduced to Rs. 60,000/- (Rupees sixty thousand) and the penalty imposed is reduced to Rs. 20,000/- /- (Rupees Twenty thousand).

8. Revision application is allowed on above terms.

9. So, ordered.


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

ORDER No. 30/2019-CUS (SZ) /ASRA/

DATED 14.10.2019

To,

Shri Harischandra Anthony Pillai
 No./1/173, Amman Nagar, Kattu Pakkam, Chennai-16.

Copy to:

1. The Commissioner of Customs, Anna ,,,International Airport, Chennai.
2. Shri A. Ganesh, Advocate, F. Block 179, IV Street, Annanagar, Chennai 600 102.
3. Sr. P.S. to AS (RA), Mumbai.
4. Guard File.
5. Spare Copy.