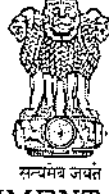


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GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
8th Floor, World Trade Centre,
Centre - I, Cuffe Parade,
Mumbai-400 005

F.No.371/363 to 365/B/WZ/2018-RA/6191 : Date of Issue : 02/11/2022

ORDER NO. 304-306 /2022-Cus (WZ) / ASRA / MUMBAI/ DATED 31.10.2022
OF THE GOVERNMENT OF INDIA PASSED BY SHRI SHRAWAN KUMAR,
PRINCIPAL COMMISSIONER & EX-OFFICIO ADDITIONAL SECRETARY TO
THE GOVERNMENT OF INDIA, UNDER SECTION 129DD OF THE CUSTOMS
ACT, 1962.

Applicant : Shri. Taufeeq Abdul Rasheed Qureshi @ Guddu

Respondent : Commissioner of Customs (Prev), Mumbai.

Subject : Revision Applications filed, under Section 129DD of the
Customs Act, 1962 against Orders-in-Appeal Nos.
(i). MUM-CUSTM-PRV-APP/382/17-18 dated 18.07.2017
issued on 18.07.2017 through F.No. S/49-600/2014-
Prev
(ii). MUM-CUSTM-PRV-APP/494/17-18 dated 12.09.2017
issued on 13.09.2017 through F.No. S/49-569/2014-
Prev

And

(iii). MUM-CUSTM-PRV-APP/511/17-18 dated
15.09.2017 issued on 21.09.2017 through F.No.
S/49-569/2014-APSC

All three passed by the Commissioner of Customs
(Appeals), Mumbai -III.

ORDER

These three Revision Applications have been filed by Shri Taufeeq Abdul Rasheed Qureshi @ Guddu, (hereinafter referred to as "the Applicant") against Orders-in-Appeal Nos. (i). MUM-CUSTOM-PRV-APP/382/17-18 dated 18.07.2017 issued on 18.07.2017 through F.No. S/49-600/2014-Prev (ii).MUM-CUSTOM-PRV-APP/494/17-18 dated 12.09.2017 issued on 13.09.2017 through F.No. S/49-569/2014-Prev **and** (iii). MUM-CUSTOM-PRV-APP/511/17-18 dated 15.09.2017 issued on 21.09.2017 through F.No. S/49-569/2014-APSC, all three passed by the Commissioner of Customs (Appeals), Mumbai - III.

2. Brief facts of the case are that the Directorate of Revenue Intelligence (DRI), Mumbai Zonal Unit (MZU) had developed an intelligence indicating that certain importers had imported motorcycles (Superbikes) of International brands such as Honda, Suzuki, Yamaha, Harley Davidson, Kawasaki etc in disassembled form and had cleared the same at Kolkatta, NhavaSheva and other ports as "parts of motorcycle" which attracted basic Customs Duty @7.5 to 10% ad valorem+other Customs Duties. The modus operandi was to import complete motorcycles in guise of parts and the values declared to Customs was of these individual parts. The Basic Customs Duty on complete motorcycles is 100% ad valorem. All these consignments had been imported under cover of fictitious IEC's. The consignments of these so called "parts" had then been transported to Mumbai and Pune and then re-assembled into complete motorcycles. Forged Bills of Entry were prepared to show import of complete motorcycles and these motorcycles were registered at RTOs on the basis of such forged Bills of Entry. These locally assembled complete superbikes were thereafter sold to gullible buyers. The same modus operandi was used to import and sell a (i)(a). Suzuki GSX 1300 R Hayabusa motorcycle bearing Registration No. MH-06-AT-5810, (i)(b). Kawasaki Ninja ZX 10R motorcycle bearing Registration No. MH06-AT-0162, (ii). Honda CBR 954 motorcycle bearing Registration no. MH-06-AD-3900 and (iii). Yamaha FZ-6, 600cc motorcycle bearing Registration no. MH-06-AT-3360, all these had been confiscated under section 111(d) and 111(m) of the Customs Act for violations of Policy provisions and mis-declaration of description and value.

3. Investigations by DRI revealed that the Applicant had admitted to having sold these subject superbikes bearing registration nos. MH-06-AT-5810, MH06-AT-0162, MH-06-AD-3900 and MH-06-AT-3360 for a commission and also that the money had been collected by him. Applicant was aware that these motorcycles were illegally imported but had dealt with the sale of the impugned motorcycle.

4. After due process of the law, the original adjudicating authority (OAA) viz, Joint Commissioner of Customs (Prev), Adjudication Section, R & I Division, Mumbai vide three separate Orders-In-Original bearing nos i.e. (i). JC/R&I/JS/44/2014-15 dated 28.08.2014 (DOI : 12.09.2014) issued through F.No. S/14-4-22/2013 Adj (DRI/MZU/E/1/09/PT.95), (ii). JC/R&I/JS/34/2014-15 dated 12.08.2014 (DOI : 28.08.2014) issued through F.No. S/14-4-35/2013 Adj (DRI/MZU/E/1/09/PT.68) and (iii). JC/R&I/JS/51/2014-15 dated 10.03.2015 (DOI : 17.03.2015) issued through F.No. S/14-4-24/2013 Adj (DRI/MZU/E/1/2009/PT.115), besides the others involved in the case, had imposed a penalty of Rs. 2,00,000/- , Rs. 1,50,000/- and Rs. 2,00,000/- respectively, under Section 112(b) of the Customs Act, 1962 on the applicant.

5. Aggrieved by these orders, the applicant had filed three separate appeals with the Commissioner of Customs (Appeals), Mumbai – III who vide three separate Orders-in-Appeal Nos. (i). MUM-CUSTM-PRV-APP/382/17-18 dated 18.07.2017 issued on 18.07.2017 through F.No. S/49-600/2014-Prev (ii).MUM-CUSTM-PRV-APP/494/17-18 dated 12.09.2017 issued on 13.09.2017 through F.No. S/49-569/2014-Prev **and** (iii). MUM-CUSTM-PRV-APP/511/17-18 dated 15.09.2017 issued on 21.09.2017 through F.No. S/49-569/2014-APSC, dismissed the three appeals of the Applicant holding the same to be devoid of any merits.

6. Aggrieved with the above orders, the Applicant has filed these three revision applications for setting aside the penalty imposed.

7. Government has examined the matter and it is observed that the motorcycle parts were imported under cover of Bills of Entry which were filed under Section 46 of the Customs Act, 1962 for clearance of the same through various seaports. Whereas, as per first proviso to Section 129A read with Section 129DD of Customs

Act, 1962, a revision application can be filed before the Government against the order-in-appeal, if it relates to the issue of baggage, drawback of duty and short landing of the goods. But no such issue is involved in the above mentioned orders-in-appeal and the dispute is regarding import of the motorcycle parts as normal cargo cleared at the port. Therefore, the Government does not have jurisdiction to deal with these Revision Applications.

8. In view of above discussions, Government is of opinion that the issue involved in these 3 cases do not fall within the jurisdiction of this authority and hence, the issue is required to be agitated before the proper legal forum, i.e. Tribunal, if the Applicant deems fit to do so. The revision applications are thus not maintainable before this authority for want of jurisdiction in terms of Section 129A read with Section 129DD of the Customs Act, 1962.

9. These three revision applications filed by the applicant are thus, rejected as being non-maintainable for lack of jurisdiction.

Shrawan Kumar
31/10/22

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

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ORDER No. 306 /2022-CUS (WZ) /ASRA/MUMBAI DATED 31.10.2022

To,

1. Shri. Taufeeq Abdul Rasheed Qureshi @ Guddu, Resident of A-1. Servant Quarters, Jasmin Villa, Umberbhoy Road, Agripada, Mumbai - 400 008.

Copy to:

1. The Commissioner of Customs (Prev), New Customs House, Ballard Estate, Mumbai - 400 001.
2. Assistant Commissioner (P), Revenue Recovery Cell, R & I, Mumbai, 11th Floor, Revenue Recovery Cell, New Custom House, Mumbai - 400 001.
3. Sr. P.S. to AS (RA), Mumbai.
4. File Copy,
5. Notice Board.