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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. 371/23/B/16-RA / 3073

Date of Issue : 07.12.21

ORDER NO. 307 /2021-Cus (WZ) / ASRA / MUMBAI/  
DATED 06.12.2021 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. Harjeet Singh Makkar

Respondent : Commissioner of Customs (Prev), Mumbai.

Subject : Revision Applications filed, under Section 129DD of the  
Customs Act, 1962 against Order-in-Appeal No.  
MUM-CUSTOM-PRV-APP/522 & 523/15-16 03.12.2015  
[F.No. S/49-478 & 479/2014 Prev] passed by the  
Commissioner of Customs (Appeals), Mumbai -III.

ORDER

The Revision Application has been filed by Shri Harjeet Singh Makkar, (hereinafter referred to as "the Applicant") against Order-in-Appeal No. MUM-CUSTM-PRV-APP/522 & 523/15-16 03.12.2015 [F.No. S/49-478 & 479/2014 Prev] 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 Yamaha YFZ 1000 R1' bearing Registration No. MH-06-AR-7309 which 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 the subject superbike bearing registration no. MH-06-AR-7308 for a commission and also that the money had been collected by him. Applicant was

aware that the motorcycle was illegally imported but had dealt with the sale of the impugned motorcycle.

4. After due process of the law, the original adjudicating authority viz, Joint Commissioner of Customs (Prev), Adjudication Section, R & I Division, Mumbai vide Order no. Order-In-Original No. JC/R&I/JS/08/2014-15 dated 27.05.2014 [(DRI/MZU/E/1/09/PT.120)S/14-4-07/13Adj] besides the others involved in the case, had imposed a penalty of Rs. 7,12,267/- under Section 112(b) of the Customs Act, 1962 on the applicant.

5. Aggrieved by this order, the applicant filed an appeal with the Commissioner of Customs (Appeals), Mumbai - III who vide the Order-in-Appeal No. MUM-CUSTM-PRV-APP/522 & 523/15-16 03.12.2015 [F.No. S/49-478 & 479/2014 Prev] dismissed the appeal of the Applicant.

6. Aggrieved with the above order, the Applicant has filed the revision application for setting aside the penalty imposed.

7. Personal hearing in the matter through the virtual video conferencing mode was scheduled for 03.11.2021 / 10.11.2021. Shri. Ravi Hirani, Advocate for the applicant appeared and requested to reduce the penalty as applicant had no role and main matter had already been settled by the Settlement Commission. Further, applicant had no knowledge about the matter and was merely a domestic broker.

8. The 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 order-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.

9. In view of above discussions, Government is of opinion that the issue involved in this case does 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 application is thus not maintainable before this authority for want of jurisdiction in terms of Section 129A read with Section 129DD of the Customs Act, 1962.

10. The revision application is thus rejected as being non-maintainable for lack of jurisdiction.

  
( SHRAWAN KUMAR )

Principal Commissioner & ex-officio  
Additional Secretary to Government of India

ORDER No 307/2021-CUS (WZ) /ASRA/ DATED 06.12.2020

To,

Shri. Harjeet Singh Makkar, G-2, Sharan House, South Main Road,  
Koregaon Part, Pune - 1.

Copy to:

1. The Commissioner of Customs (Prev), New Customs House, Ballard Estate, Mumbai - 400 001.
2. Sr. P.S. to AS (RA), Mumbai.
3. Guard File,
4. File Copy,
5. Notice Board.