

373/136-142,146,153,154/B/14-RA

REGISTERED/ SPEED POST



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

F.No. 373/136-142,146,153,154/B/14-RA

Date of Issue 12.02.2018

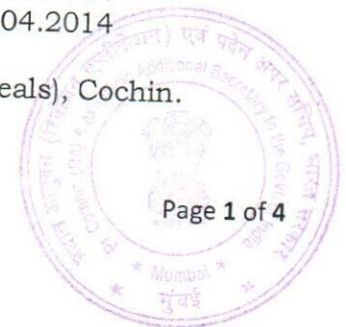
ORDER NO. ³³⁴² 373/2018-CUS (SZ) / ASRA / MUMBAI/ DATED 12.02.2018 OF
THE GOVERNMENT OF INDIA PASSED BY SHRI ASHOK KUMAR MEHTA , PRINCIPAL
COMMISSIONER & EX-OFFICIO ADDITIONAL SECRETARY TO THE GOVERNMENT OF
INDIA, UNDER SECTION 129DD OF THE CUSTOMS ACT, 1962.

Applicants : Smt. Abdul Asees Sithy Nooriya.
: Smt. Abdul Azees Samsun Fareeda.
: Shri. Mohammed Nasru Mohammed Sameem.
: Shri. Mohammed Zarook Seyad Ahmed.
: Shri. Mohammed Rafeek Rafaka.
: Shri. Segar Parimalam.
: Smt. Mohamed Pullar Abrosa Baanu.
: Shri. Mohammed Pullair Mohammed Naseek.
: Smt. Kalajothi Sundareshwaran.
: Smt. Sulaiman Sithy Naheema.
: Shri. Mohammed Nasur Mohammed Sameem.

Respondent : Commissioner of Customs, Cochin.

Subject : Revision Application filed, under Section 129DD of the
Customs Act, 1962 against the Orders-in-Appeal
No. CoC-CUSTM-000-App-05-14-15 dated 02.04.2014
No. CoC-CUSTM-000-App-07-14-15 dated 02.04.2014
No. CoC-CUSTM-000-App-10-14-15 dated 02.04.2014
No. CoC-CUSTM-000-App-11-14-15 dated 02.04.2014
No. CoC-CUSTM-000-App-02-14-15 dated 02.04.2014
No. CoC-CUSTM-000-App-06-14-15 dated 02.04.2014
No. CoC-CUSTM-000-App-04-14-15 dated 02.04.2014
No. CoC-CUSTM-000-App-09-14-15 dated 02.04.2014
No. CoC-CUSTM-000-App-03-14-15 dated 02.04.2014
No. CoC-CUSTM-000-App-08-14-15 dated 02.04.2014

passed by the Commissioner of Customs (Appeals), Cochin.



ORDER

These Revision Applications have been filed by the below mentioned Applicants against orders in Appeal passed Commissioner of Customs (Appeals), Cochin appearing against their names.

Sl. No.	Name of the Applicant Shri/ Smt. & R.A. No.	Order in Original	Order in Appeal No.
1	Abdul Asees Sithy Nooriya 373/136/B/14-RA	333/2013 dt. 24.11.2013	No. CoC-CUSTOM-000-App-05-14-15 dated 02.04.2014
2	Abdul Azeez Samsun Fareeda, 373/137/B/14-RA	343/2013 dt. 24.11.2013	No. CoC-CUSTOM-000-App-07-14-15 dated 02.04.2014
3	Shri Mohammed Nasru Mohammed Sameem 373/138/B/14-RA	363/2013 dt. 24.11.2013	No. CoC-CUSTOM-000-App-10-14-15 dated 02.04.2014
4	Shri Mohammed Zarook Seyad Ahmed 373/139/B/14-RA	318/2013 dt. 19.11.2013	No. CoC-CUSTOM-000-App-11-14-15 dated 02.04.2014
5	Mohammed Rafeek Rafaka, 373/140/B/14-RA	325/2013 dt. 25.11.2013	No. CoC-CUSTOM-000-App-02-14-15 dated 02.04.2014
6	Segar Parimalam, 373/141/B/14-RA	336/2013 dt. 25.11.2013	No. CoC-CUSTOM-000-App-06-14-15 dated 02.04.2014
7	Mohamed Pullar Abrosa Baanu, 373/142/B/14-RA	329/2013 dt. 24.11.2013	No. CoC-CUSTOM-000-App-04-14-15 dated 02.04.2014
8	Shri Mohammed Pullar Mohammed Naseek, 373/146/B/14-RA	355/2013 dt. 24.11.2013	No. CoC-CUSTOM-000-App-09-14-15 dated 02.04.2014
9	Kalajothi Sundareshwaran, 373/153/B/14-RA	326/2013 dt. 24.11.2013	No. CoC-CUSTOM-000-App-03-14-15 dated 02.04.2014
10	Smt Sulaiman Sithy Naheema.373/154/B/14-RA	343/2013 dt. 24.11.2013	No. CoC-CUSTOM-000-App-08-14-15 dated 02.04.2014

2. Since a common issue is involved in all these Revision Applications and as they are being represented by the same advocate Shri Palanikumar, these Revision Applications are being disposed by a common order.

3. All of the above mentioned Applicants are Sri Lankan nationals. They all arrived at Cochin International Airport on various dates from Colombo, Sri Lanka.

They were all intercepted on their arrival at the Cochin International Airport by the Customs officers and search of their baggage and person resulted in the recovery of assorted gold articles and jewelry. The impugned gold articles and jewelry were not declared by the Applicants as required under Section 77 of the Customs Act, 1962. After due process of the law the Original Adjudication Authority ordered absolute confiscation of the impugned goods under Section 111 (d), (l), (m) and (o) of the Customs Act read with Section 3 (3) and also imposed penalty under Section 112 (a) of the Customs Act, 1962. The Orders in Original were all passed by The **Commissioner of Customs, Air Customs, Cochin.**

4. Aggrieved by the said orders of the lower authority, the Applicants filed appeals before the Commissioner of Customs (Appeals), Cochin. The Commissioner (Appeals) in his orders, in all the above cases, observed that the impugned orders have been passed by the Commissioner (Customs) and therefore it has gone beyond the purview of the Commissioner (Appeals) as per the provisions of section 128(1) of the Customs Act 1962. In view of the above all the impugned Appeals were rejected without going into the merits of the case.

5. Government has carefully gone through the facts of the case. Government observes that the impugned cases have not been adjudicated on merits at the Appellate stage. The cases have been adjudicated by an Officer at the level of the Commissioner, thus placing them out of the purview of the Commissioner (Appeals). This has resulted in a denial of an opportunity of fair play and justice to the Applicants at the Appellate level/stage. In addressing the said issue the Government therefore opines, that the said cases need to be re-adjudicated by the Appropriate authority at the Original Adjudication Authority level. The impugned Orders in Appeal therefore need to be set aside.

6. In light of observations made in foregoing para, The impugned Orders-in-Appeal herein are set aside. Government, in the interest of fair play and natural justice orders that all the cases be remanded back to the original adjudicating authority of the rank of Joint/Additional Commissioner for consideration afresh by the appropriate authority. The matter is remanded for denovo proceedings on

the terms mentioned supra. The Original Adjudicating Authority shall pass the speaking orders after following the principles of natural justice within 8 weeks from the receipt of this order.

7. The Revision Applications listed above are thus disposed of in terms of above.

8. So, ordered.

Ashok Kumar Mehta
12.2.18

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

ORDER No. ~~33-42~~ 2018-CUS (SZ) /ASRA/MUMBAI

DATED 12.02.2018

To,

- : Smt. Abdul Asees Sithy Nooriya.
- : Smt. Abdul Azees Samsun Fareeda.
- : Shri. Mohammed Nasru Mohammed Sameem.
- : Shri. Mohammed Zarook Seyad Ahmed.
- : Shri. Mohammed Rafeek Rafaka.
- : Shri. Segar Parimalam.
- : Smt. Mohamed Pullar Abrosa Baanu.
- : Shri. Mohammed Pullair Mohammed Naseek.
- : Smt. Kalajothi Sundareshwaran.
- : Smt. Sulaiman Sithy Naheema.
- : Shri. Mohammed Nasur Mohammed Sameem.

True Copy Attested

S. R. Hirulkar
12-2-18

एस. आर. हिरुलकर
S. R. HIRULKAR
(A-C 1)

C/o S. Palanikumar, Advocate,
No. 10, Sunkurama Chetty Street,
Opp High court, 2nd Floor,
Chennai 600 001.

Copy to:

1. The Commissioner of Customs, Anna International Airport, Chennai.
2. The Commissioner of Customs (Appeals), Custom House, Rajaji Salai Chennai.
3. Sr. P.S. to AS (RA), Mumbai.
4. Guard File.
5. Spare Copy.

