

REGISTERED  
SPEED POST

सत्यमेव जयते

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. 373/81/B/15-RA | 5

Date of Issue 06/06/2018

ORDER NO. <sup>335</sup>/2018-CUS (SZ) / ASRA / MUMBAI/ DATED 31.05.2018 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. Thameemun Ansari

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 No.  
103/2015 dated 24.03.2015 passed by the Commissioner  
of Customs (Appeals) Chennai.



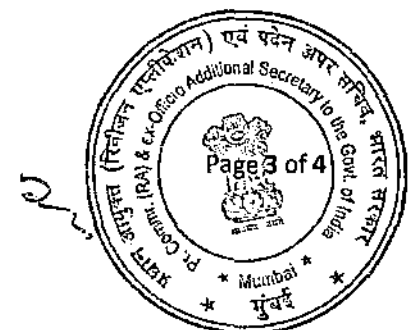


5.2 The Applicant further pleaded that The Hon'ble High Court of Andhra Pradesh in the case of Sheikh Jamal Basha vs GOI 1997 (91) ELT 277 (AP) has stated held that under section 125 of the Act is Mandatory duty to give option to the person found guilty to pay fine in lieu of confiscation; The Apex court in the case of Hargovind Dash vs Collector Of Customs 1992 (61) ELT 172 (SC) and several other cases has pronounced that the quasi judicial authorities should use the discretionary powers in a judicious and not an arbitrary manner; The absolute confiscation of the gold and imposition of penalty was high and unreasonable. The Hon'ble Supreme Court has in the case of Om Prakash vs Union of India states that the main object of the Customs Authority is to collect the duty and not to punish the person for infringement of its provisions;

5.3 The Revision Applicant cited various assorted judgments and boards policies in support of allowing re-export of the gold prayed for re-export on payment of nominal redemption fine and reduced personal penalty and render justice.

5. A personal hearing in the case was held on 19.04.2018, the Advocate for the respondent Shri Palanikumar attended the hearing. He re-iterated the submissions filed in Revision Application and submitted that the revision application be decided on merits. Nobody from the department attended the personal hearing.

6. The Government has gone through the case records it is observed that the Applicant did not declare the gold pieces at the time of interception. The gold bar and bits were ingeniously concealed in the transformer Core of an Amplifier of Pioneer Brand. There is absolutely no doubt that the concealment was intelligently planned so as to evade Customs duty and to smuggle the gold into India. The aspect of allowing the gold for re-export can be considered when imports have been made in a legal manner. This is not a simple case of mis-declaration. The Applicant has been abroad for only two days, and therefore it appears that the tour has also been planned specifically to smuggle gold.



The said offence was committed in a premeditated and clever manner and clearly indicates mensrea, and that the Applicant had no intention of declaring the gold to the authorities and if he was not intercepted before the exit, would have escaped payment of customs duty.

8. The above acts have therefore rendered the 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 penalty. The Government also holds that Commissioner (Appeals) has rightly upheld the order of the original adjudicating authority.

9. The Government therefore finds no reason to interfere with the Order-in-Appeal. The Appellate order C. Cus. 103/2015 dated 24.03.2015 passed by the Commissioner of Customs (Appeals), is upheld as legal and proper.

10. Revision Application is dismissed.

9. So, ordered.

*Ashok Kumar Mehta*  
31.5.2018

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

ORDER No. <sup>335</sup>/2018-CUS (SZ) /ASRA/mumbai

DATED 31.05.2018

To,

Shri Thameemun Ansari  
C/o S. Palanikumar, Advocate,  
No. 10, Sunkurama Chetty Street,  
Opp High court, 2<sup>nd</sup> Floor,  
Chennai 600 001.

**True Copy Attested**

*Sankarsan Munda*

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

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.

