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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. 373/45/B/15-RA

Date of Issue 11.12.19

ORDER NO. 34/2019-CUS (SZ)/ASRA/MUMBAI DATED 28.10.2019 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 : Smt. Thilini Poornima Peiris

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.
64/2014 dated 19.11.2014 passed by the Commissioner of
Customs (Appeals-I), Chennai.

ORDER

This revision application has been filed by Smt. Thilini Poornima Peiris (herein after referred to as the Applicant) against the order in appeal C.Cus-I No. 64/2014 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. She was intercepted as she was attempting to pass through the green channel. Examination of her checked in baggage resulted in the recovery of two gold bangles and Four gold pendants totally weighing 128 gms valued at Rs. 3,29,251/- (Rupees Three Lacs Twenty nine thousand Two hundred and Fifty one).

3. The Original Adjudicating Authority vide Order-In-Original No. 853/2014 Batch-B 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. 1,00,000/- (Rupees One lac Twenty thousand) and imposed penalty of Rs. 33,000/- (Rupees Thirty three 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. 64/2014 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 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 Applicant is an Sri Lankan national; 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 mensrea 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 jewelry are personal effects. He sought for reduction of redemption fine and personal penalty. 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 notes that the adjudicating authority has rightly allowed the gold on redemption fine and penalty and the Appellate authority has rightly upheld the order. However, considering the circumstances of the case, the prayer for reduction is allowed. The redemption fine is accordingly reduced to Rs. 50,000/- (Rupees Fifty thousand). The personal penalty imposed under section 112 of the Customs Act, 1962 is also reduced to Rs. 15,000/- (Rupees Fifteen thousand).

8. Revision application is accordingly disposed.

9. So, ordered.

(SEEMA ARORA)

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

ORDER No. 34/2019-CUS (SZ) /ASRA/

DATED 28.10.2019

To,

Smt. Thilini Poornima Peiris, D/o Malwaththage,
No. 1/173, Amman Nagar, Kattu Pakkam, Chennai.

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.