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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. 373/13/B/17-RA / 3562

Date of Issue 29.03.2020

ORDER NO. 36/2019-CUS (SZ)/ASRA/MUMBAI DATED 06.05.2020 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 : Shri Vishal Gul Bhatia

Respondent : Commissioner of Customs, Airport, Bangalore.

Subject : Revision Application filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal No. 938/2017 dated 02.11.2017 passed by the Commissioner of Customs (Appeals), Bangalore.



ORDER

This revision application has been filed by Shri Vishal Gul Bhatia, (herein after referred to as the Applicant) against the order in appeal No. 938/2017 dated 02.11.2017 passed by the Commissioner of Customs (Appeals), Bangalore.

2. Briefly stated the facts of the case is that the applicant arrived at the Kempegowda International Airport on 30.12.2016. The passenger was marked for detailed scanning at the green channel. Examination of his baggage resulted in the recovery of 11 (eleven) assorted Mobile phones and 286 pen drives totally valued at Rs. 4,43,399/-, (Rupees Four lacs Forty three thousand, Three hundred and Ninety nine. ).

3. The Original Adjudicating Authority vide Order-In-Original No. 125/2016-17 dated 03.01.2017 ordered confiscation of the impugned goods under Section 111 (d) and (l) of the Customs Act,1962, but allowed redemption of the same on payment of Rs. 66,510/- ( Rupees Sixty six Thousand Five hundred and ten) as redemption fine and imposed a penalty of Rs. 1,33,020/- ( Rupees One lac Thirty three thousand and twenty) was imposed under Section 112 (a) of the Customs Act,1962. A penalty of Rs.88,680/- ( Rupees Eighty eight thousand Six hundred and eighty) was imposed under Section 114AA of the Customs Act,1962.

4. Aggrieved by the said order, the applicant filed appeal before the Commissioner (Appeals) who vide Order-In-Appeal No. 938/2017 dated 02.11.2017 rejected the Appeal.

5. The applicant has filed this Revision Application interalia on the grounds that the imposition of the penalty is harsh and excessive and penalty under section 114 AA be set aside as no fraud or collusion is established.

6. A personal hearing in the case was scheduled on 28.11.2019. The Consultant for the Applicant Shri P. Shingrani, Advocate for the Applicant attended the hearing and pleaded that the penalty imposed was harsh and excessive and prayed for reduction of penalty. Nobody from the department attended the said hearing.



7. The Government has gone through the facts of the case, The Applicant has accepted that the goods namely mobiles and the pen drives were in commercial quantity and therefore the confiscation of the same is justified. As these mobiles are neither restricted nor prohibited the Adjudicating authority has rightly allowed them to be redeemed on fine and penalty. However, the Government is of the opinion that a penalty of Rs. 1,33,020/- ( Rupees One lac Thirty three thousand and twenty) was imposed under Section 112 (a) of the Customs Act, 1962 under section 112 (a) and Customs duty of Rs. 48,670/- is on the higher side. The Applicant has pleaded for reduction of penalty and the Government observes that a suitable reduction would meet the ends of justice. The impugned Order in Appeal is therefore liable to be modified accordingly.

8. Accordingly, the penalty imposed under section 112 of the Customs Act is reduced to Rs.50,000/- (Rupees Fifty thousand), Once penalty has been imposed under section 112(a) there is no necessity of imposing penalty under section 114AA. The penalty of Rs. 88,680/- ( Rupees Eighty eight thousand Six hundred and eighty) imposed under section 114AA of the Customs Act, 1962 is set aside.

9. Revision application is allowed on above terms.

10. So, ordered.

( SEEMA ARORA )  
Principal Commissioner & ex-officio  
Additional Secretary to Government of India

ORDER No. 36/2019-CUS (SZ) /ASRA/Mumbai DATED 04.05.2020

To,

Shri Vishal Gul Bhatia  
BK. No. 832, R. No. 23, Opp Jai Mata Apts, NR Sector 17 Ulhasnagar,  
Thane - 421 003.

Copy to:

1. The Pr. Commissioner of Customs, Airport & Air Cargo Complex, Kempegowda International Airport, Bangalore.
2. Shri Prakash Shingrani, Advocate, 12/334 New MIG Colony, Bandra ( E ) Mumbai - 51.  
Sr. P.S. to AS (RA), Mumbai.  
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ATTESTED

B. LOKANATHA REDDY  
Deputy Commissioner (R.A.)



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