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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. 373/25/15-RA | 836

Date of Issue 29/06/2018

ORDER NO. 371/2018-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. Satham Hussain

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. 35/2014 dated 10.11.2014 passed by the Commissioner of Customs (Appeals-I) Chennai.



ORDER

This revision application has been filed by Shri Satham Hussain (herein referred to as Applicant) against the order 35/2014 dated 10.11.2014 passed by the Commissioner of Customs (Appeals), Bangalore.

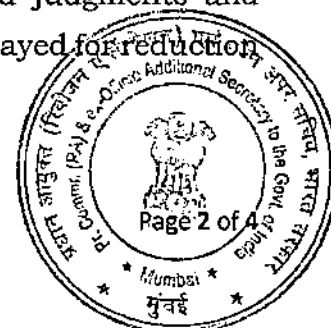
2. Briefly stated facts of the case are that the applicant had arrived at the Chennai Airport on 12.09.2014. Examination of his baggage resulted in recovery of 8 (eight) duplicate mobile phones valued at Rs. 24,000/- (Rupees Twenty Four thousand) and one Samsung 55" LED TV valued at Rs. 55,000/- (Rupees Fifty Five thousand). The Original Adjudicating Authority vide his order 1154/2014- Batch D dated 12.09.2014 absolutely confiscated the mobile phones as being counterfeit and commercial in quantity. The Samsung TV was allowed on payment of applicable customs duty. A Penalty of Rs. 6,000/- under Section 112 (a) of the Customs Act, 1962 was also imposed on the Applicant.

4. Aggrieved by this order the Applicant filed an appeal with the Commissioner of Customs (Appeals) Chennai. The Commissioner of Customs (Appeals) Chennai, allowed redemption of the goods on payment of fine of Rs. 15,000/- and holding that Penalty of Rs. 6,000/- under Section 112 (a) as being appropriate and allowed the Appeal.

5. The applicant has filed this Revision Application interalia on the grounds that,

5.1 The order of the Commissioner (Appeals) is against law, weight of evidence and circumstances and probabilities of the case; The goods are not a harm to society; the authority was well aware that the goods would lose value with time and the models will be outdated and hence requested for early orders; he declared the correct value of the goods and he had brought for his own use and not for commercial sale; The adjudication authority also failed to take into consideration that the goods would also suffer customs duty in addition to redemption fine and penalty and hence the total would be more than the value of the goods.

5.2 The Revision Applicant cited various assorted judgments and boards policies in support of re-export of the gold and prayed for reduction of redemption fine and reduction of personal penalty.



6. 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 cited the decisions of GOI/Tribunals where re-export of goods was allowed on reduced redemption fine and penalty. Nobody from the department attended the personal hearing.

7. The Government observes that the Applicant has brought electronic junk quite unmindful of the deception it would perpetuate on the purchasers. Their intent and disregard to the rules of the country can be clearly perceived from these activities. Such goods are normally sold as genuine goods to unsuspecting purchasers. The aspect of allowing the such goods for re-export could be considered when imports have been made in a legal manner. Government therefore holds that import of such counterfeited goods should be disallowed and discouraged.

9. The Government therefore finds no reason to interfere with the Order-in-Appeal. The Appellate order C. Cus. No. 35/2014 dated 10.11.2014 passed by the Commissioner of Customs (Appeals), is upheld as legal and proper.

10. Revision Application is dismissed.

11. So, ordered.

Ashok Kumar Mehta
21.5.18

(ASHOK KUMAR MEHTA)

Principal Commissioner & ex-officio

Additional Secretary to Government of India

ORDER No. 371/2018-CUS (SZ) /ASRA/ MUMBAI

DATED 31.05.2018

True Copy Attested

To,

Shri Satham Hussain

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-I), Custom House, Chennai.
3. Sr. P.S. to AS (RA), Mumbai.
4. Guard File.
5. Spare Copy.

S. R. Hirulkar
29/5/18
एस. आर. हिरुलकर
S. R. HIRULKAR
(A-C)

