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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. 371/30-A/B/16-RA / 3522

Date of Issue 29.07.2020

ORDER NO. 38 /2020-CUS (WZ)/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 : Smt. Sheikh Shabana Amin

Respondent : Commissioner of Customs, Ahmedabad.

Subject : Revision Application filed, under Section 129DD of the  
Customs Act, 1962 against the Order-in-Appeal No. AHD-CUSTOM-  
000-APP-339-15-16 dated 28.01.2016 passed by the  
Commissioner of Customs (Appeals), Ahmedabad.



ORDER

This revision application has been filed by Smt. Sheikh Shabana Amin (herein after referred to as the Applicant) against the Order in appeal No. AHD-CUSTOM-000-APP-339-15-16 dated 28.01.2016 passed by the Commissioner of Customs (Appeals), Ahmedabad.

2. Briefly stated the facts of the case is that the applicant arrived at the SVPI Airport on 14.09.2014. As her movements appeared suspicious she was diverted to the red channel. As she was passing through the scan machine it registered a beep and on enquiry she admitted that she was carrying gold in her undergarments. The officers thus recovered 8 bars of gold collectively weighing 932.880 grams, valued at Rs. 23,90,038/- ( Rupees Twenty three lacs Ninety Thousand and thirty eight.)

3. The Original Adjudicating Authority vide Order-In-Original No. 96/ADC-MRM/SVPIA/O&A/2015 dated 11.06.2015 ordered absolute confiscation of the impugned gold under Section 111 (d) (l) and (m) of the Customs Act,1962 and imposed penalty of Rs. 5,00,000/- ( Rupees Five Lacs ) under Section 112 (a) of the Customs Act. A penalty of Rs. 2,50,000/- ( Rupees Two lacs Fifty Lacs ) was also 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. AHD-CUSTOM-000-APP-339-15-16 dated 28.01.2016 rejected the appeal of the applicant.

5. Aggrieved with the above order the Applicant, has filed this revision application interalia on the grounds that the adjudicating authority erred on relying only on the statement of the Applicant and ordered confiscation.; The adjudicating authority ought to have considered various orders and practice followed in releasing the gold. That the penalty u/s 114AA be set aside as no violation of fraud was done in the case. The Applicant prayed for setting aside the absolute confiscation of the gold, reduce personal penalty or any such or other reliefs this Hon'ble Court may deem fit and proper.

6. A personal hearing in the case was scheduled in the case on 28.11.2019. Advocate for the Applicant Shri Prakash Shingrani Advocate for the Applicant appeared for the hearing. He contested the absolute confiscation of the gold and sought redemption of the gold on fine and penalty.



FINDINGS AND ORDER

7. The Government has gone through the facts of the case. The Applicant did not declare the gold as required under section 77 of the Customs Act, 1962 and therefore confiscation of the gold is justified. The applicant confessed carrying gold in her underwear after being subjected to a body scan. In her voluntary statement recorded by the Customs officers on the day of the seizure the applicant has admitted that the impugned gold was given to her by her sister-in-law and she was supposed to hand over the gold to a person who would identify her and collect the gold and pay her Rs. 30,000/- as remuneration. She therefore has admitted to being a carrier in her voluntary statement. The Applicant is not an eligible passenger to import gold. It is clear that the Applicant had no intention of declaring the gold if she was not intercepted by the Customs officers, the gold would have escaped payment of customs duty. The Government therefore is not inclined to accede to the Applicant's request for release of the gold on redemption fine and penalty. The impugned gold is liable for absolute confiscation.

8. In view of the above facts, the Government is of the opinion that the adjudicating and the Appellate authority has rightly confiscated the gold absolutely. Government therefore holds that there is no need for interference in so far as the absolute confiscation and imposition of penalty under section 112 (a) of the Customs Act, 1962. However once penalty has been imposed under section 112(a) there is no necessity of imposing penalty under section 114AA. The penalty of Rs. 2,50,000/- ( Rupees Two lacs Fifty thousand ) imposed under section 114AA of the Customs Act, 1962 is set aside.

9. So, ordered.

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

ORDER No. 28 /2020-CUS (WZ) /ASRA/MUMBAI

DATED 06.05.2020

To,

1. Smt. Sheikh Shabana Amin, 184 Old Bumkhana, 1<sup>st</sup> Floor, Room No. 37, 180/188, Duncan Road, M. A. Road, Mumbai-400 008.

Copy to:

1. The Commissioner of Customs, SVPI Airport, Ahmedabad.
2. Shri Prakash Shingrani, Advocate, 12/334 New MIG Colony, Bandra ( E ) Mumbai - 51.
2. Sr. P.S. to AS (RA), Mumbai.
- Guard File. ,
5. Spare Copy.

**ATTESTED**

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

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