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GOVERNMENT OF INDIA
MINISTRY OF FINANCE
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Mumbai-400 005

F.No. 371/22/B/WZ/2017

2062

Date of Issue

05.04.2023

ORDER NO. 412 /2023-CUS (WZ) / ASRA / MUMBAI/ DATED 30.03.2023
OF THE GOVERNMENT OF INDIA PASSED BY SHRI SHRAWAN KUMAR,
PRINCIPAL COMMISSIONER & EX-OFFICIO ADDITIONAL SECRETARY TO THE
GOVERNMENT OF INDIA, UNDER SECTION 129DD OF THE CUSTOMS ACT,
1962.

F.No. 371/22/B/WZ/2017

Applicant : Shri. Yash Madhusudan Thakkar

Respondent : Commissioner of Customs, 'Custom House',
Navrangpura, Ahmedabad - 380 009.

Subject : Revision Applications filed, under Section 129DD of the
Customs Act, 1962 against the Order-in-Appeal No. AHD-
CUSTM-000-APP-110-16-17 dated 22.03.2017 through F.No.
S/49-31/CUS/AHD/2016-17 passed by the Commissioner of
Customs (Appeals), Ahmedabad.

ORDER

This Revision Application has been filed by Shri Yash Madhusudan Thakkar (hereinafter referred to as "Applicant") against the Order-in-Appeal No. AHD-CUSTM-000-APP-110-16-17 dated 22.03.2017 through F.No. S/49-31/CUS/AHD/2016-17 passed by the Commissioner of Customs (Appeals), Ahmedabad.

2(a). On the basis of an intelligence, the Directorate of Revenue Intelligence (DRI), Ahmedabad Zonal Unit (AZU), had on 13.02.2014 intercepted seven parcels which had arrived at M/s. PNX Logistics Private Ltd, Narol, Ahmedabad from Mumbai and had been booked by M/s. Raising Express Logistics Pvt. Ltd, Mumbai for delivery to Shri. Madhusudan Thakkar. These parcels had originated at Dubai and contained articles such like photo-frame, fruit bowls, glass plates etc and it was suspected that gold in substantial quantity in the form of alloy of gold would be concealed in the said articles. The seven parcels were screened at sub-foreign post office and images indicated presence of metal. The same were detained and sent to the Directorate of Forensic Science (DFS), Gandhinagar for testing of suspected metal. The DFS, Gandhinagar vide their report dated 03.11.2014 confirmed the presence of gold and silver in all the parcels excepted parcel no. 4 and 7.

2(b). 876.6262 grams of silver valued at Rs. 36,420/- and 321.8064 grams of gold valued at Rs. 8,18,412/- were found concealed in the parcels. Investigations carried out by DRI, AZU revealed that the applicant was instrumental in the import of the seven post parcels. The parcels mentioned the name of the applicant's father but had all been signed by the applicant.

3. After due process of the law, the original adjudicating authority (OAA) viz, Addl. Commissioner of Customs, Ahmedabad vide his Order-In-Original No. 22/ADC-AK/Cus-Paldi/YASH/O&A/2016 dated 06.05.2016 issued through

VIII/10-21/Cus-Paldi/Yash/O&A/2015 ordered or the absolute confiscation of (i). 872.6262 grams of silver found concealed in parcel no. 1,2,3,5 & 6 and valued at Rs. 36,420/- under Section 111(l), 111(i) and 111(m) of the Customs Act, 1962 and (ii). 321.8064 grams of gold found concealed in parcel no. 1,2,3,5 & 6 and valued at Rs. 8,18,412/- under Section 111(l), 111(i) and 111(m) of the Customs Act, 1962, (iii). the parcels nos. 1,2,3,5 & 6 used in concealing the silver and gold were also ordered to be confiscated under Section 111(d), 111(i) and 111(m), however, the same were allowed to be redeemed on payment of a redemption fine of Rs. 25,000/-. Further, a penalty of Rs. 1,25,000/- was imposed on the applicant under Section 112 of the Customs Act, 1962. Also, a penalty of Rs. 75,000/- was also imposed on the applicant under Section 114AA of the Customs Act, 1962.

5. Aggrieved by this order, the applicant filed an appeal with the Appellate Authority (AA) viz Commissioner of Customs (Appeals), Ahmedabad who vide his Order-In-Appeal Nos. AHD-CUSTOM-000-APP-110-16-17 dated 22.03.2017 through F.No. S/49-31/CUS/AHD/2016-17 rejected the appeal filed by the applicant holding that he did not find any infirmity in the Order-in-Original passed by the Original Adjudicating Authority.

6(a). Aggrieved with the above orders, the Applicant has filed this revision application and has submitted an exhaustive ground of appeal. The same is not being reproduced here for reasons mentioned in para 7 & 8 below.

6(b). Personal hearing in the case was scheduled for 12.01.2023, 23.01.2023.

6(c). The applicant vide his letter dated 19.01.2023 informed that he was unable to attend the personal hearing and requested to take into consideration all the facts and arguments advanced in his revision application dated 16.06.2017.

7. The Government has examined the matter in detail and has gone through the records made available while filing the revision application. At the outset, it is observed that the case pertains to goods under import through courier / post

parcel. As per first proviso to Section 129A(1) read with Section 129DD of Customs Act, 1962, a revision application can be filed before the Government against the order-in-appeal if it relates to the issue of baggage, drawback of duty and short landing of the goods. The dispute is regarding import of goods by courier / post parcel and not import through baggage. Therefore, the Government finds that it does not have any jurisdiction to deal with these Revision Applications.

8. In view of above, Government is of opinion that the issue involved in this case does not fall within the jurisdiction of this authority and hence, the issue is required to be agitated before proper legal forum, i.e. Tribunal, if the Applicant deems fit to do so. The revision application is thus, not maintainable before this authority for want of jurisdiction in terms of Section 129A read with Section 129DD of the Customs Act, 1962.

9. The revision application, thus, stands rejected as being non-maintainable for lack of jurisdiction.


(SHRAWAN KUMAR)

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

ORDER No. 412 /2023-CUS (WZ) /ASRA/MUMBAI DATED 30.03.2023.

To,

1. Shri Yash Madhusudan Thakkar, B-9, Punit Apartments, Near Indian Bank, Opp. Good Luck Hall, Daxini Society, Maninagar, Ahmedabad.
2. Commissioner of Customs, 'Custom House', Navrangpura, Ahmedabad - 380 009.

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