

REGISTERED  
SPEED POST

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. 380/75/WZ/2018-RA/310<sup>2</sup> Date of Issue 29.07.2020

ORDER NO. 41/2020 - CUS (WZ)/ASRA/MUMBAI DATED 08.07.2020 OF THE GOVERNMENT OF INDIA PASSED BY SHRI SEEMA ARORA, PRINCIPAL COMMISSIONER & EX-OFFICIO ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA, UNDER SECTION 129DD OF THE CUSTOMS ACT, 1962.

Applicant : Commissioner of Customs, CSI Airport, Mumbai

Respondent : Shri Maheshkumar Gopaldas Udasi

Subject : Revision Application filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal No. MUM-CUSTM-PAX-APP-177/18-19 dated 22.06.2018 passed by the Commissioner of Customs (Appeals), Mumbai-III.







redemption of Gold to the Respondent; the Ld. Appellate Authority has correctly discarded the judgements relied upon by the Adjudicating Authority as being inapplicable to this case and entirely different from the facts of the present case; The Respondent submits that it may be kindly appreciated that the Mumbai Commissionerate in similar situations/Cases have permitted the redemption ( Gold under Section 125 of the Customs Act,1962 and therefore the impugned goods in the present case also ought to have been released under Section 125 of Customs Act,1962. The Respondent craves leave to refer and rely upon similar orders in similar cases at the time of hearing.

6.2 The Respondent cited case laws in support of their contention and prayed that the Revision Application be summarily rejected and the impugned Order in Appeal be upheld and /or any other order as deemed fit

7. The Government has gone through the case records. It is observed that the gold was brought in the form of wires and it was concealed in the beadings around the trolley bags carried by the Respondent. The concealment was ingenious and it was detected only when the respondent's baggage was passed through the scanning machine. The concealment was deliberate so as to avoid detection and smuggle the gold into India. If he was not intercepted before the exit, the gold would have been taken out without payment of customs duty. In his statement recorded by the officers on 26.06.2014 he had admitted that he is not the owner of the gold and the gold was given to him by one Shri Kalubhai to be taken to India and to be given back at Nagpur.

8. The Appellate order has lost sight of the fact that the gold was ingeniously concealed as wires in the beading of the trolley bags carried by him. The Hon'ble Apex Court in the case of Commissioner of Customs Vs Samynathan Murugesan [ 2010 (254) ELT A15 (SC)] has held that " *if the concealment weighs with the adjudicating authority to order absolute confiscation, he is right in ordering and the Tribunal erred.*". The concealment in the case was ingenious and therefore the gold merits absolute confiscation. The Hon'ble Supreme Court in the case of Om Prakash Bhatia Vs Commissioner of Customs, Delhi [ 2003 (155) ELT 423 ( SC)]



observes that " in the matter of quasijudicial discretion, interference by the Appellate authority would be justified only if the lower authorities decision was illogical or suffers from procedural impropriety". The Government observes that the concealment of gold was ingenious and was rightly confiscated absolutely; the order in original does not suffer from any procedural impropriety warranting interreference from the Appellate authority. The order of the Appellate authority is therefore liable to be set aside.

8. Accordingly, The impugned Order in Appeal No. MUM-CUSTOM-PAX- APP-177/18-19 dated 22.06.2018 passed by the Commissioner of Customs (Appeals), Mumbai-III is set aside. The order of the Original Adjudication authority is upheld as legal and proper.

9. Revision application is accordingly allowed.

10. So, ordered.

( SEEMA ARORA )

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

ORDER No. 41 /2020-CUS (WZ) /ASRA/MUMBAI

DATED 03/05/2020

To,

1. The Principal Commissioner of Customs (Airport),  
Chatrapati Shivaji International Airport, Terminal -2, Mumbai.
2. Shri MaheshkumarGopaldasUdasi, Ashok LonareAwale Babu Chowk,  
NayaNakasha, Lashkaribagh, Nagpur - 440 017.

Copy to:

1. Shri N. J. Heera, Advocate, Nulwala Building, 41 Mint Road, Fort,  
Mumbai 400 001.
2. Sr. P.S. to AS (RA), Mumbai.
3. Guard File.
4. Spare Copy.

**ATTESTED**

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



ATTESTED

Done and attested at  
Washington, D.C.

