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.F.No. 380/15/B/15-RA
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

14, HUDCO VISHALA BLDG., B WING
6th FLOOR, BHIKAJI CAMA PLACE,
NEW DELHI-110 066

Date of Issue... 26/8/18

Order No. 42/18-Cus dated 23-3-2018 of the Government of India passed by Shri R.P.Sharma, Principal Commissioner & Additional Secretary to the Government of India, under Section 129DD of the Custom Act, 1962.

Subject : Revision Application filed, under section 129 DD of the Customs Act 1962 against the Order-in-Appeal No.CC(A)Cus/Air/154/2015 dated 9.3.2015 passed by the Commissioner of Customs (Appeals), New Delhi

Applicant : Commissioner of Customs, New Delhi

Respondent : Mr. Ranmeet Bhatia, New Delhi

ORDER

A Revision Application No.380/15/B/15-RA dated 21.5.15 is filed by Assistant Commissioner of Customs (Day Warehouse), IGI Airport, Terminal-3, New Delhi against the Order-in-Appeal No.CC(A)Cus/Air/154/2015 dated 9.3.2015, passed by the Commissioner of Customs, (Appeals) New Delhi, whereby the applicant has been allowed to re-export the confiscated gold on payment of redemption fine of Rs.205000/-, custom duties and on payment of penalty of Rs.50000/-.

2. The brief facts of the case are that Mr. Ranmeet Bhatia on arrival from New York was intercepted at the green channel of IGI Airport on 7.7.14 and two gold bars were recovered from him. Mr. Ranmeet Bhatia in his statement admitted that the said gold items were purchased by him in New York and the same belonged to him. The Additional Commissioner of Customs confiscated the gold items absolutely and personal penalty of Rs.50000/- was imposed on Mr. Ranmeet Bhatia vide his Order dated 9.10.14. However, on an appeal of Mr. Ranmeet Bhatia, the Commissioner (Appeals), vide above mentioned OIA, has modified the OIO by allowing Mr. Ranmeet Bhatia to re-export the gold on payment of redemption fine of Rs.2.05 lakhs and penalty of Rs.50000/-. Being aggrieved, the Revenue has filed the present revision application against the OIA. The respondent had also filed a Revision Application No.375/08/B/15-RA dated.23.3.15 against the above OIA and it has already been disposed off vide Order No.24/17-Cus dated 1.11.2017 whereby the redemption fine and penalty are reduced from Rs.205000/- and Rs.50000/- to Rs.185000/- and Rs.25000/- respectively.

3. Present revision application has been filed mainly on the ground that the Commissioner (Appeals) has committed an error by allowing Mr. Ranmeet Bhatia to re-export the confiscated gold items which were brought in India in gross violation of the provisions of Customs Act and such re-export is not permissible under Section 80 of the Customs Act.

4. A personal hearing was held in this case on 09.03.18 and it was availed by Shri Sanjay Kumar, ACO, on behalf of the applicant and he reiterated the ground of

revision already pleaded in the revision application. Mrs. Harsimran Kaur, Advocate, appeared on behalf of the respondent and she requested for reduction of redemption fine and personal penalty.

4. On examination of all the relevant case records and especially the Orders of the lower authorities, the Government does not have any doubt that the gold items were brought by the respondent with malicious intention to evade custom duties and, therefore, these gold items are undisputedly liable for confiscation as held by the Additional Commissioner of Customs in his Order. Confiscation of the gold is upheld by the Commissioner (Appeals) also and the Government agrees with his Order to the extent that the gold items could not be confiscated absolutely as the gold is not the prohibited goods. However, the Government finds that the re-export of the confiscated gold allowed by the Commissioner (Appeals) is not supported by Section 80 of the Customs Act or any other legal provision and hence not backed by any sound reasoning. Under Section 80 re-export of the detained imported goods can be permitted only at the request of the passenger while he or she is returning from India to the foreign country and thereby it is explicit that returning of the PAX to the foreign country after a short visit to India as a tourist or otherwise is a crucial condition for re-export of such goods. But in the instant case, the respondent had gone to New York only for a short visit and there is no clue that he was either a U.S. citizen or working there on long term basis. On the contrary the respondent is an Indian citizen and resided permanently in Delhi. Therefore, no statutory backing for re-exporting the gold to New York is forthcoming from the O-I-A. Otherwise also the re-export of the goods does not sound to be rational in this case as the respondent had brought the gold items with intention to evade custom duty and on being caught he requested for re-export of goods again to avoid payment of customs duty only. Thus its approval by the Commissioner (Appeals) clearly amounts to allowing the respondent to evade customs duty for no bonafide cause. Considering these facts, the Government agrees with the Revenue's contention that the Commissioner (Appeals) has committed an error by allowing the re-export of the confiscated gold. Accordingly, the Government set aside the OIA and allows the

respondent, Mr. Ranmeet Bhatia, to redeem the confiscated gold on payment of custom duties, payment of fine of Rs.185000/- and penalty of R.25000/-.

6. In view of the above discussions, the Revenue revision application is allowed.

(R.P.Sharma)
23.3.18

(R.P.Sharma)

Additional Secretary to the Government of India

Commissioner of Customs
IGI Airport, Terminal-3
New Delhi-110037

Order No. 42 /18-Cus dated 23-3-2018

Copy to:

1. Mr. Ramneet Bhatia, J-27, Lajpat Nagar-II, New Delhi-110024
2. Commissioner of Customs (Appeals), New Custom House, New Delhi
3. Additional Commissioner of Customs, IGI Airport, Terminal-3, New Delhi-37
4. Ms. Harsimran Kaur, S.S.Arora & Associates, B-1/71 Safdarjung Enclave, New Delhi-110029
5. PA to AS(RA)
6. Guard File.
7. Spare Copy

ATTESTED

(Debjit Banerjee)
23.3.2018

(Debjit Banerjee)
STO (Revision Application)