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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. 371/448-449/WZ/2022 17859 : Date of Issue 03.01.23

ORDER NO. ¹²⁹⁻430/2022-CUS (WZ) / ASRA / MUMBAI/ DATED 29.12.2022 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.

Applicant : Shri Murtuza Readymadewala

Respondent : The Commissioner of Customs, Airport Special Cargo,
Mumbai.

Subject : Revision Applications filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal No. MUM-CUSTM-APSC-APP-758 & 759/2022-23 dated 22.07.2022 passed by the Commissioner of Customs (Appeals), Mumbai -III.

ORDER

This Revision Application has been filed by Shri Murtuza Readymadewala (hereinafter referred to as "Applicant") against the Order-in-Appeal No. MUM-CUSTOM-APSC-APP-758 & 759/2022-23 dated 22.07.2022 passed by the Commissioner of Customs (Appeals), Mumbai -III.

2. The issue briefly is, the officers of the Special Investigation and Intelligence Branch, Airport Special Cargo Commissionerate (SIIB) detained and examined 2 nos of suspected couriers. The detailed examinations of both the couriers resulted in the recovery of concealed Foreign Currency amounting to 2,88,000 US dollars. It was noticed that the packages bearing HAWB No.202316658972 in the name of exporter Shri Junaid Akhtar Shaik and HAWB No.202316658994 in the name of exporter Mr. Dinesh L. Salian having declared value of export goods Rs.9300/- and Rs.8750/- respectively. The goods were declared as Ladies Skirt, Tops, Footwear and Printed Table Mats.

3. Shri Rajeev Nair, Partner of M/s Vertex Express LLP accepted to have booked these shipments with M/s Airwings Logistics Pvt Ltd and informed that the said shipments were booked to them by his regular client, i.e. the Applicant. It is alleged that the applicant was the main person behind attempted smuggling of huge amount of foreign currency with fake invoices using KYC documents of other persons. A search was conducted at the residence of the applicant and gold bar/gold coin/ gold bar cut piece and jewelry having ascertained value of Rs.29,70,835/- had taken over.

4. The investigations conducted in the matter resulted in a show cause notice by investigative agencies. After due process of the law the original adjudicating authority vide its order nos. ADC/KKG/25/2021-22/Adjn.(APSC) dated 17.06.2021 absolutely confiscated foreign currency having net sale proceeds of Rs. 2,15,20,435/- (Rupees Two Crore fifteen lakh twenty thousand four hundred and thirty five only) and imposed a penalty of Rs. 30,00,000/- (Rupees Thirty lakhs) on Shri Murtuza Readymadewala under section 114A of the Customs Act, 1962, and a penalty of Rs. 20,00,000/- (Rupees

Twenty lakhs) under section 114AA of the Customs Act, 1962. The adjudicating authority had also appropriated the sale proceeds of gold bar/gold coin/ gold bar cut piece and jewelry having net value of Rs.29,70,835/- (Rupees Twenty Nine lakh seventy thousand eight hundred and thirty five only) against penalty on the applicant.

5. Aggrieved by this order the applicant filed an appeal with the Commissioner of Customs (Appeals). The Commissioner (Appeals) vide his order No. MUM-CUSTOM-APSC-APP-758 & 759/2022-23 dated 22:07.2022 held that the goods in the said courier were held liable for confiscation under section 113(d), 113(e), 113(h), 113(i), section 118 & section 119 of the Customs Act, 1962 and therefore any person who had done any act rendering export goods and concealed currency notes or its sales proceed liable for confiscation or abetted such act shall be liable to penalty in terms of section 114 and section 114AA of Customs Act, 1962. It is also held that the gold bar/gold coin/ gold bar cut piece and jewelry taken over under Panchnama had not been liable for confiscation under provisions of the Customs Act, 1962 and ordered release of the same subjected to payment of all dues payable by the applicant.

6. Aggrieved with the above orders the Applicant has filed this revision application pleading that they were falsely implicated in the case of smuggling. There is no concrete and cogent evidence against the applicant. The applicant submits that the Commr.(Appeals) held that the gold bar/gold coin/ gold bar cut piece and jewelry are not liable for confiscation and hence there is no reason for imposing any condition for release of the same.

7. The Government has examined the matter at the outset it is observed that the case pertains to goods under import through courier. 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. Therefore, the Government does not have 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
29/12/22
(SHRAWAN KUMAR)

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

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ORDER No. 430/2022-CUS (WZ) /ASRA/MUMBAI DATED 29.12.2022

To,

1. Shri Murtuza Readymadewala, 18/1804, Galaxy Apartment, Opp. Byculla Railway Station(W), Mumbai 400 027.
2. The Commissioner of Customs, Airport Special Cargo, Avas Corporate Point, Marol Naka, Andheri Kurla Road, Andheri(East), Mumbai – 400 059.

Copy to:

1. Shri Ashok Singh, Advocate, 302, Gundecha Chambers, Nagindas Master Road, Fort Mumbai - 400023.
2. Sf. P.S. to AS (RA), Mumbai.
3. Guard File.
4. Notice Board