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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. 371/115-116/B/2019 & 371/117-118/B/2019 / 7339 Date of Issue 03.01.23

ORDER NO. ¹³² ~~135~~/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 : 1. Mr. Mir Mohd Rafi
2. Mr. Murtuza Sadriwala
3. Mrs. Durriya Sadriwala

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-1180 & 1181/2018-19 & MUM-CUSTM-APSC-APP-1182 & 1183/2018-19 dated 28.02.2019 passed by the Commissioner of Customs (Appeals), Mumbai -III.

ORDER

These Revision Applications have been filed by Shri Mr. Mir Mohd Rafi (hereinafter referred to as "Applicant – No.1"), Mr. Murtuza Sadriwala (hereinafter referred to as ("Applicant - No.2") & Mrs. Durriya Sadriwala ("Applicant - No.3") against the Order-in-Appeal No. MUM-CUSTM- APSC-APP-1180 & 1181/2018-19 & MUM-CUSTM- APSC-APP-1182 & 1183/2018-19 dated 28.02.2019 passed by the Commissioner of Customs (Appeals), Mumbai -III.

2. The issue briefly is, the officers of the Airport special Cargo Commissionerate (SIIB Import) detained and examined 2 post parcels bearing tracking No.EE131200680TH and No.EE131200693TH arrived from Thailand.

- (i) The parcel bearing tracking No.EE131200680TH was in the name of applicant – no.2 i.e. Mr. Murtuza Sadriwala and declared as "Gift" and purported to contain cream chocolates weighing 430 gms. During detailed examination of package the custom officers recovered 1 gold bar bearing mark as "Fine Gold 999.9" weighing 152 gms and valued at Rs.4,51,288/- wrapped in blue colour carbon paper inside the bundle which was kept in the Gift package.
- (ii) The parcel bearing tracking No. EE131200693TH was in the name of applicant – no.3 i.e. Mrs. Durriya Sadriwala Sadriwala and declared as "Gift" and purported to contain cream chocolates weighing 436 gms. During detailed examination of package the custom officers recovered 1 gold bar bearing mark as "TNB96301" weighing 162 gms and valued at Rs.4,80,978/- wrapped in blue colour carbon paper inside the bundle which was kept in the Gift package.
- (iii) Further investigation in the matter revealed that a common letter of authority was written by Mrs. Durriya Sadriwala and her son Mr. Murtuza Sadriwala authorizing Mr. Mir Mohd. Rafi (Applicant – No.1) to collect the said

parcel and Mr. Mir Mohd Rafi had booked the said parcel from Thailand on the name of Mr. Murtuza Sadriwala.

4. The investigations conducted in the matter resulted in a show cause notices by investigative agencies. After due process of the law the original adjudicating authority adjudicated the cases.

(i) The adjudicating authority vide its order no. AC/SY/337/38/2016-17/APSO dated 04.11.2016 ordered absolutely confiscated 1 gold bar weighing 152 gms valued at Rs.4,51,288/- recovered under parcel bearing tracking No.EE131200680TH under section 111 (d), (f), (i) and (m) of the Customs Act, 1962 and personal penalty of Rs.3,00,000/- was imposed on the Mr. Mir Mohd Rafi under section 112 (b) and Rs.1,00,000/- on Mr. Murtuza Sadriwala under section 112(a) & 114AA of the Customs Act, 1962.

(ii) The adjudicating authority vide its order no. AC/SY/336/2016-17/APSO dated 04.11.2016 ordered absolutely confiscated 1 gold bar weighing 162 gms valued at Rs.4,80,978/- recovered under parcel bearing tracking No. EE131200693TH under section 111 (d), (f), (i) and (m) of the Customs Act, 1962 and personal penalty of Rs.3,00,000/- was imposed on the Mr. Mir Mohd Rafi under section 112 (b) and Rs.1,00,000/- on Mrs. Durriya Sadriwala under section 112(a) & 114AA of the Customs Act, 1962.

5. Aggrieved by this order the applicants filed an appeal with the Commissioner of Customs (Appeals).

(i) The Commissioner (Appeals) vide his order No. MUM-CUSTM-APSC-APP-1182 & 1183/2018-19 dated 28.02.2019 held that the adjudicating authority has rightly confiscated the seized gold absolutely recovered under parcel bearing tracking no.EE131200690TH for contravention of the

Customs Act, 1962. However, the appellate authority reduced the penalty on Mr. Mir Mohd Rafi to Rs.1,50,000/- and on Mr. Murtuza Sadriwala to Rs.50,000/-.

- (ii) The Commissioner (Appeals) vide his order No. MUM-CUSTOMS-APSC-APP-1180 & 1181/2018-19 dated 28.02.2019 held that the adjudicating authority has rightly confiscated the seized gold absolutely recovered under parcel bearing tracking no.EE131200693TH for contravention of the Customs Act, 1962. However, the appellate authority reduced the penalty on Mr. Mir Mohd Rafi to Rs.1,50,000/- and on Mrs. Durriya Sadriwala to Rs.50,000/-.

6. Aggrieved with the above orders the Applicants have filed this revision application. Mr. Murtuza Sadriwala & Mrs. Durriya Sadriwala pleaded that they were falsely implicated in the case of smuggling. They submitted that they were not aware that the parcel contained illegal goods and hence imposition penalty of Rs.50,000/- each may be set aside. Mr. Mohd Rafi requested that both the gold bars may be released to him on the payment of appropriate customs duty and reasonable fine and penalty.

7. The Government has examined the matter at the outset it is observed that the case pertains to goods under import through 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 post parcel. 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 applications thus stand rejected as being non-maintainable for lack of jurisdiction.


(SHRAWAN KUMAR)

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

⁴³²⁻⁴³⁵
ORDER No. /2022-CUS (WZ) /ASRA/

DATED 29-12-2022

To,

1. Mr. Mir Mohd Rafi, 69, I.K.Road, Alipur, Gowribidnur Taluka, Distt Chikaballpur, Karnataka – 561208
2. Mr. Murtuza Sadriwala, Saifee Burhani Park 2, MHADA, Transit Camp, Room No. 1006, Ghodapdeo, Mumbai - 400033.
3. Mrs. Durriya Sadriwala, Saifee Burhani Park 2, MHADA, Transit Camp, Room No. 1006, Ghodapdeo, Mumbai - 400033.
4. The Commissioner of Customs, Airport Special Cargo, Avas Corporate Point, Marol Naka, Andheri Kurla Road, Andheri(East), Mumbai – 400 059.

Copy to:

1. Shri Prakash K. Shingrani, Advocate, 12/334, Vivek, New MIG Colony, Bandra(E), Mumbai - 400051.
2. Sr. P.S. to AS (RA), Mumbai.
3. Guard File. ,
4. Notice Board