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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. 373/199/B/14-RA

10/5/18

Date of Issue 19/07/2018

ORDER NO. <sup>453</sup>7/2018-CUS (SZ) / ASRA / MUMBAI / DATED 20.06.2018 OF  
THE GOVERNMENT OF INDIA PASSED BY SHRI ASHOK KUMAR MEHTA,  
PRINCIPAL COMMISSIONER & EX-OFFICIO ADDITIONAL SECRETARY TO  
THE GOVERNMENT OF INDIA, UNDER SECTION 129DD OF THE  
CUSTOMS ACT, 1962.

Applicant : Shri Siyath Muneer

Respondent : Commissioner of Customs, Chennai.

Subject : Revision Application filed, under Section 129DD of the  
Customs Act, 1962 against the Order-in-Appeal No. C.  
Cus No. 754/2014 dated 01.05.2014 passed by the  
Commissioner of Customs (Appeals), Chennai.



ORDER

This revision application has been filed by Shri Siyath Muneer (herein referred to as Applicant) against the order no 754/2014 dated 01.05.2014 passed by the Commissioner of Customs (Appeals), Chennai.

2. Briefly stated the facts of the case are that the applicant, arrived at the Chennai Airport on 31.01.2013. The Examination of his person resulted in the recovery of gold biscuits weighing 199 grams totally valued at Rs. 5,00,684/- ( Rupees Five lakhs Six hundred and Eighty four) from his under wear. After due process of the law vide Order-In-Original No. 1548/2013 Batch A dated 31.12.2013 the Original Adjudicating Authority absolutely confiscated the impugned gold under Section 111 (d), (l), (m) and (o) of the Customs Act read with Section 3 (3) of Foreign Trade (Development & Regulation) Act, and also imposed penalty of Rs. 50,000/- under Section 112 (a).

3. Aggrieved by the said order, the applicant filed appeal before. Aggrieved by the said order, the applicant filed appeal before the Commissioner (Appeals) who vide Order-In-Appeal C. Cus No. 754/2014 dated 01.05.2014 rejected the appeal of the applicant.

4. The applicant has filed this Revision Application inter alia on the following grounds that

4.1 The order of the appellate authority is bad in law, weight of evidence and probabilities of the case; The Applicant did not cross the customs barrier ; The Applicant clearly comes across as a tourist being a foreigner; Circular no 72/98 dated 24.09.98 clearly states that person effects includes personal jewelry; The Adjudicating authority should not have held that gold is a prohibited item; The gold was kept in the inner hip pocket for safety sake and it was declared; As the Applicant was willing to pay duty the gold should not have been absolutely confiscated; Not extending the option under the section 125 of the Customs Act, 1962 violates the principles of natural justice; Gold is regulated not prohibited; The Applicant volunteered to pay duty and he had foreign currency for the same but was ignored; Non consideration of section 125, of Customs Act is against law; The lower authority ought not to



have imposed Higher penalty of Rs.50,000 under section 112 of the customs Act , when there is no mensrea.

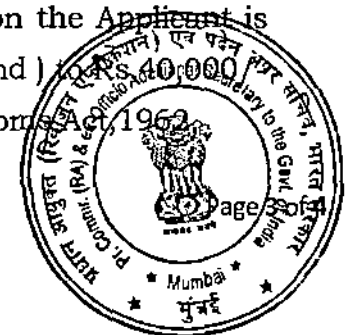
4.2 The Applicant prayed that this Hon'ble Forum may be pleased to set aside the order of to Lower authorities and prays for re export and to set aside the order of absolute confiscation and thus render justice.

5. A personal hearing in the case was scheduled to be held on 30.05.2018, the Advocate for the respondent Shri A. Ganesh reiterated the submissions in the Revision Application and requested for reduction in fine and penalty. Nobody from the department attended the personal hearing.

6. The Government has gone through the facts of the case. The goods were not properly declared and under the circumstances confiscation of the goods is justified.

7. However, the facts of the case state that the Applicant had not cleared the Green Channel. The goods were recovered from his hip pocket and it was not indigenously concealed. There are a catena of judgments which align with the view that the discretionary powers vested with the lower authorities under section 125(1) of the Customs Act, 1962 have to be exercised. The Government is of the opinion that the redemption fine and penalty is on the higher side and a lenient view can be taken in the matter. The Applicant has pleaded for reduction of the redemption fine and penalty and the Government is inclined to accept the plea. The impugned Order in Appeal therefore needs to be modified and the confiscated goods is liable to be allowed for re-export on payment of redemption fine and penalty.

8. In view of the above, Government allows redemption of the confiscated goods for re-export in lieu of fine. The impugned gold totally weighing 199 grams totally valued at Rs. 5,00,684/- ( Rupees Five lakhs Six hundred and Eighty four Rupees ) is considered to be redeemed for re-export on payment of redemption fine of Rs. 2,00,000/- (Rupees Two lakhs ) under section 125 of the Customs Act, 1962. Government also observes that the facts of the case justify reduction in the penalty imposed. The penalty imposed on the Applicant is therefore reduced from Rs. 50,000/- (Rupees Fifty thousand ) to Rs. 40,000 ( Rupees Forty thousand) under section 112(a) of the Customs Act, 1962.



9. The impugned Order in Appeal is modified as detailed above. Revision application is partly allowed on above terms.

10. So, ordered.

*Ashok Kumar Mehta*  
20/06/18

(ASHOK KUMAR MEHTA)

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

ORDER No. <sup>453</sup>/2018-CUS (SZ) /ASRA/MUMBAI

DATED 20.06.2018

To,

Shri Siyath Muneer  
C/o A. Ganesh, Advocate,  
F. Block, 179, ( New No. 8)  
Annanagar,  
Chennai 600 102,  
Tamilnadu

Copy to:

1. The Commissioner of Customs, Anna International Airport, Chennai.
2. The Commissioner of Customs (Appeals), Custom House, Chennai.
3. Sr. P.S. to AS (RA), Mumbai.
4. Guard File.
5. Spare Copy.

**Attested**

*Sankarsan Munda*  
19/7/18

**SANKARSAN MUNDA**  
Asst. Commissioner of Customs & C. Ex.

