



REGISTERED
SPEED POST

F.No. 373 / 64, 67, 68 & 76 / B /13 - R. A.

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

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

Date of Issue 4/4/14

Order No. 47-50/2014-Cus dated 31.03.2014 of the Government of India, passed By Shri D.P.Singh, Joint Secretary to the Government of India, under Section 129DD of Customs Act, 1962.

Subject : Revision applications filed, under Section 129 DD of Customs Act 1962 against the orders-in-appeal as stated in Column 3 of the table in para 1 of this order passed by Commissioner of Customs Excise (Appeals), Chennai.

Applicant : S/Shri Mohd. Ibrahim Abdul Rasheed, Abdul Hameed & Ms. Fathima, .Mohd. Basheer & Ms. Fathima Bisrul Nazeera & Mohd. Savahir
C/o. Shri S. Palanikumar,
Advocate,
No. 10, Sunkuram Chetty Street.
Second Floor,
Chennai - 600 001

Respondent : The Commissioner of Customs (Airport & Aircargo),
Integrated Air Export Complex,
Meenambakkam,
Chennai - 600 027

* * * *

ORDER

These Revision Applications are filed by the applicants against the Order-in-appeal numbers passed by the Commissioner of Customs (Appeals), Chennai as detailed in the following table :

S. No	R.A.No. Name of the Applicant S/Shri	Against Order-In-Appeal No. & Date	Order-in-Appeal passed by Commissioner of Customs (Appeals)	Order-in-Original No. & Date	Description / Value of goods (Rs.)	Redemption Fine / Personal Penalty imposed in O-I-O (Rs.)	Redemption Fine / Personal Penalty imposed in O-I-A (Rs.)
1.	2.	3.	4.	5.	6.	7.	8.
1.	373/64/B/13 - R.A. Mohd. Ibrahim Abdul Rasheed	587/13 dated 08.04.2013	Chennai	17/12-Adj.- Air dated 11.05.2012	Gold jewellery weighing 479 grams valuing Rs. 1307670/-	650000 130000 (re-export allowed)	250000 50000
2	373/67/B/13 -R.A. .Abdul Hameed & Ms. Fathima Nazeera	556-557/13-Air dated 28.03.2013	Chennai	21/12-JC-Air dated 18.07.2012	6 Crude gold bangles 341.29 grams Rs.977538/-	490000 98000 (re-export allowed)	200000 50000
3	373/68/B/13-R.A. .Mohd. Basheer & Ms. Fathima Bisrul	556-557/13-Air dated 28.03.2013	Chennai	20/12-JC-Air dated 18.07.2012	6 Crude gold bangles 395.2 grams Rs.1132248/-	566000 110000 re-export allowed	200000 50000
4	373/76/B/13 -R.A. Mohd. Savahir	675/13-Air dated 30.04.2013	Chennai	966/12-Air dated 17.12.2012	One crude gold chain 98.9 gms Rs. 299173/-	150000 30000	50000 10000 re-export allowed

2. Brief facts of the case are that the applicants arrived at Chennai International Airport from abroad and imported gold jewellery / gold in commercial quality as shown in the column No. 6 of above table. The passengers were frequent travellers and did not declare the goods before customs as required under section 77. The said goods were also in commercial quantity. As such, it cannot be treated as bona fide baggages in terms of section 79 of Customs Act read with para 2.20 of FTP 2009 – 2014. The said goods were imported in violation of provisions of Section 77, 79, 11 of Custom Act read with provisions of para 2.20 of FTP 2009 – 2014 and Section 3(3) of

Foreign Trade (Development & Regulation) Act 1992. The adjudicating authority after following due process of law confiscated the said goods under section 111 (d) (l) & (m) of Customs Act, 1962. However, an option to redeem the same on payment of redemption fine as shown at column No. 7 of the above table was given to the applicants under section 125 of Customs Act, 1962. Penalty as shown at column No. 7 of the above table was also imposed on the said applicants under section 112 of Customs Act, 1962. The goods were allowed to be re-exported.

3. Being aggrieved by the said Orders-in-Original, applicants filed appeal before Commissioner (Appeals) who modified the Orders-in-Original as stated in the above table.

4. Being aggrieved by the impugned order-in-appeal, the applicants have filed these revision applications under Section 129 DD of the Customs Act, 1962 before the Central Government on the following common grounds :

- (i) Order of the respondent is against law, weight of evidence and circumstances and probabilities of the case.
- (ii) The jewellery was bought for personal use. They have stated before Customs that the said gold was being imported for personal use.
- (iii) There is no proof that applicant walked through green channel without declaring the goods in the declaration form.
- (iv) The applicants further submit that the Hon'ble Supreme Court (full bench) has delivered a judgement on 30.09.2011 in OM Praksah's case vs. Union of India wherein it is categorically stated that the main object of the enactment of the said act was the recovery of excise duties and not really to punish for infringement of its provisions. Further held that the offences are compoundable under section 137 of the said act and summary proceedings under Section 138 of Customs Act.
- (v) The adjudicating authority failed to consider their pleadings while passing the order. The authority ought to have passed an order to

re-export the goods imposing lesser redemption fine and personal penalty. The appellant further submits that the adjudicating authority clearly mentioned in the adjudication order that there was no previous offence. Finally, applicants requested that the fine and penalty may be reduced substantially.

5. Personal hearing scheduled in these cases on 20.03.2014 at Chennai was attended by Shri Palani Kumar, Advocate on behalf of the applicants as detailed in para 1 of the table. He reiterated the grounds of revision application as mentioned above and requested to reduce redemption fine / penalty.

6. Government has carefully gone through the relevant case records and perused the impugned order-in-original and order-in-appeal.

7. On perusal of records, Government observes that applicant passengers did not declare the said goods to the Customs as required under section 77 of Customs Act. The said goods were also in commercial quantity. As such, the said goods cannot be treated as bona fide baggage in terms of section 79 of Customs Act read with para 2.20 of FTP 2009 – 2014. The said goods were imported in violation of provisions of Section 77, 79, 11 of Custom Act read with provisions of para 2.20 of FTP 2009 – 2014 and Section 3(3) of Foreign Trade (Development & Regulation) Act 1992. The adjudicating authority confiscated the goods under section 111 of Customs Act but allowed the same to be redeemed for re-export on payment of redemption fine as shown at column no. 7 of above table in lieu of confiscation, under section 125 of Customs Act, 1962. Personal penalty as shown at column no. 7 of above table was also imposed on the applicants. Applicants in their revision applications have not disputed the confiscation of said goods but requested to reduce redemption fine and penalty. As such order for confiscation of goods and imposition of penalty cannot be assailed.

8. As regards the pleadings of the applicants to reduce redemption fine and personal penalty, Government notes that the redemption fine and personal penalty

imposed in these cases is quite reasonable and the same cannot be called harsh. As such the said contention of applicants is not acceptable. Therefore, the fine and penalty imposed by appellate authority is not interfered with.

9. These revision applications are thus rejected being devoid of merits.

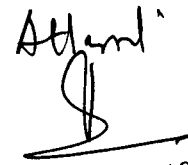
10. So, ordered.



(D.P. SINGH)

JOINT SECRETARY TO THE GOVERNMENT OF INDIA

S/Shri Mohd. Ibrahim Abdul Rasheed, Abdul Hameed & Ms. Fathima,
Mohd. Basheer & Ms. Fathima Bisrul Nazeera & Mohd. Savahir
C/o. Shri S. Palanikumar,
Advocate,
No. 10, Sunkuram Chetty Street.
Second Floor,
Chennai - 600 001




(भगवत शर्मा/Bhagwat Sharma)
सहायक आयुक्त/Assistant Commissioner
C.B.E.C.-O.S.D. (Revision Application)
वित्त मंत्रालय (राजस्व विभाग)
Ministry of Finance (Deptt. of Revenue)
भारत सरकार/Govt. of India
नई दिल्ली / New Delhi

GOI Order No. 47-50/14-Cus dated 31.03.2014

Copy to:

1. The Commissioner of Customs (Airport), Integrated Air Export Complex, Meenambakkam, Chennai - 600 027
2. The Commissioner of Customs (Appeals), Custom House, 60, Rajaji Salai, Chennai - 600 001
3. The Additional Commissioner of Customs (Airport), Integrated Air Export Complex, Meenambakkam, Chennai - 600 027
4. Guard File.
- ✓ 5. PS to JS (RA)
6. Spare Copy


(भागवत ~~शर्मा~~ Ashwath Sharma)
सहायक आयुक्त/Assistant Commissioner
C B E C - O S D (Revision Application)
वित्त मंत्रालय (राजस्व विभाग)
Ministry of Finance (Deptt. of Rev.)
भारत सरकार/Govt. of India
नई दिल्ली / New Delhi