



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. 373/309/B/14-RA

Date of Issue 24/07/2018

ORDER NO. 475/2018-CUS (SZ)/ASRA/MUMBAI DATED 28.06.2018 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 Shahul Hameed

Respondent : Commissioner of Customs, Chennai.

Subject : Revision Application filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal No. 962/2014 dated 13.06.2014 passed by the Commissioner of Customs (Appeals), Chennai.



ORDER

This revision application has been filed by Shri Shahul Hameed (herein after referred to as the Applicant) against the order no C. Cus No. 962/2014 dated 13.06.2014 passed by the Commissioner of Customs (Appeals), Chennai.

2. Briefly stated the facts of the case is that the applicant arrived at the Chennai International Airport on 13.02.2014. Examination of his person and baggage resulted in the recovery of one gold bar weighing 100 gms valued at Rs. 2,54,318/- (Rupees Two lakh Fifty-four thousand Three hundred and Eighteen) and one Panasonic Camera. The gold bar was taped to the back of his leg under his trousers.

3. The Original Adjudicating Authority vide Order-In-Original No. 307/2014 Batch A dated 13.03.2014 allowed the Panasonic Camera on free allowance and applicable duty, and ordered absolute confiscation of the impugned gold under Section 111 (d), and (l) of the Customs Act read with Section 3 (3) of Foreign Trade (Development & Regulation) Act, and imposed penalty of Rs. 25,000/- under Section 112 (a) of the Customs Act.

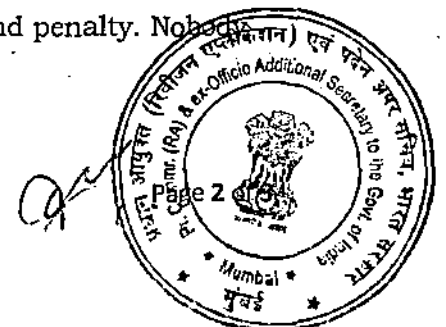
4. Aggrieved by the said order, the applicant filed appeal before the Commissioner (Appeals) who vide Order-In-Appeal No. 962/2014 dated 13.06.2014 rejected the appeal of the applicant.

5. The applicant has filed this Revision Application interalia on the following grounds that;

5.1. The order of the Commissioner (Appeals) is against law, weight of evidence and circumstances and probabilities of the case; The gold biscuit was gifted by a close relative for his sister's marriage; there was no profit motive for bringing the gold; The gold was declared on arrival ; The rejection of the Appeal was devoid of merits; The absolute confiscation and imposition of penalty is very severe and harsh.

5.2 The Revision Applicant prayed for setting aside the order of absolute confiscation and allow re-export and reduce the personal penalty.

6. A personal hearing in the case was held on 27.06.2018, the Advocate, Shri M. A. Abdul Huck for the respondent re-iterated the submissions filed in Revision Application pleaded for re-export of gold and reduction of fine and penalty. Nobody from the department attended the personal hearing.



7. The Government has gone through the case records it is observed that the Applicant had concealed gold bar by taping it to the back of his leg under his trousers. The concealment was planned so as to avoid detection and evade Customs duty and smuggle the gold into India. The aspect of allowing the gold for re-export can be considered when imports have been made in a legal manner. This is not a simple case of mis-declaration. In this case the Applicant has blatantly tried to smuggle the gold into India in contravention of the provisions of the Customs, 1962. The said offence was committed in a premeditated and clever manner and clearly indicates mensrea, and that the Applicant had no intention of declaring the gold to the authorities and if he was not intercepted before the exit, the Applicant would have taken out the gold pieces without payment of customs duty.

8. The above acts have therefore rendered the Applicant liable for penal action under section 112 (a) of the Customs Act, 1962. The Government therefore holds that the Original Adjudicating Authority has rightly confiscated the gold absolutely and imposed a penalty of Rs. 25,000/-. The Government also holds that Commissioner (Appeals) has rightly upheld the order of the original adjudicating authority.

9. The Government therefore finds no reason to interfere with the Order-in-Appeal. The Appellate order C. Cus. No. 962/2014 dated 13.06.2014 passed by the Commissioner of Customs (Appeals), is upheld as legal and proper.

10. Revision Application is dismissed.

11. So ordered.

*Ashok Kumar Mehta*  
26/6/18

(ASHOK KUMAR MEHTA)  
Principal Commissioner & ex-officio  
Additional Secretary to Government of India

ORDER No. <sup>475</sup>/2018-CUS (SZ) /ASRA/MUMBAI

DATED: 26.06.2018

To,

Shri Shahul Hameed  
s/o Mohammed Ali,  
No. 31/5/I Saiva Muthaiah Street,  
Muthiapet,  
Chennai 600 001.

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*  
27/6/18

**SANKARSAN MUNDA**  
Asstt. Commissioner of Custom & C. Ex.