

REGISTERED
SPEED POST

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
8th Floor, World Trade Centre, Centre - I, Cuffe Parade,
Mumbai-400 005

F.No. 373/308/B/14-RA | 1048

Date of Issue 24/07/2018

ORDER NO. 476/2018-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 Syed Abbas

Respondent : Commissioner of Customs, Chennai.

Subject : Revision Application filed, under Section 129DD of the
Customs Act, 1962 against the Order-in-Appeal No. 1176/2014 dated 07.07.2014
passed by the Commissioner of Customs (Appeals), Chennai.



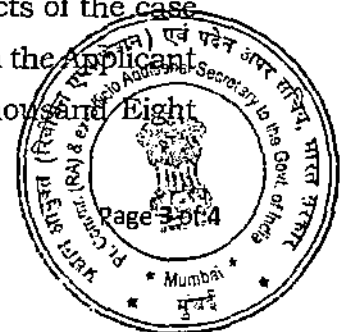
Revision Application pleaded for for re-export of gold and reduction of fine and penalty. Nobody from the department attended the personal hearing.

7. The Government has gone through the facts of the case. The gold was not declared by the passenger as required under Section 77 of the Customs Act, 1962. Under the circumstances confiscation of the goods is justified.

8. However, the Government, also observes that there is no ingenious concealment of the gold. The ownership of the gold is not disputed. The Applicant has no previous offences registered against him inspite of being a frequent traveler. Further, The CBEC Circular 09/2001 gives specific directions to the Customs officer in case the declaration form is incomplete/not filled up, the proper Customs officer should help the passenger record to the oral declaration on the Disembarkation Card and only thereafter should countersign/stamp the same, after taking the passenger's signature. Thus, mere non-submission of the declaration cannot be held against the Applicant.

9. Further, 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. In view of the above facts, the Government is of the opinion that a lenient view can be taken in the matter. The Applicant has pleaded for re-export on redemption fine and reduced personal penalty and the Government is inclined to accept the plea. The impugned Order in Appeal therefore needs to be modified and the confiscated goods are liable to be allowed for re-export on redemption fine and penalty.

10. In view of the above, Government allows redemption of the confiscated gold biscuit for re-export in lieu of fine. The gold biscuit weighing 100 gms valued at Rs. 2,68,460/- (Rupees Two lakh Sixty Eight thousand Four hundred and sixty) is ordered to be redeemed for re-export on payment of redemption fine of Rs.1,00,000/- (Rupees One lakh) 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. 26,840/- (Rupees Twenty six thousand Eight



Des

hundred and forty) to Rs. 20,000/- (Rupees Twenty thousand) under section 112(a) of the Customs Act, 1962.

11. The impugned Order in Appeal stands modified to that extent. Revision application is partly allowed on above terms.

12. So, ordered.

(Handwritten Signature)

(ASHOK KUMAR MEHTA)

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

ORDER No. 176/2018-CUS (SZ) /ASRA/MUMBAI

DATED 28-06.2018

To,

Shri Syed Abbas
s/o Mohammed Ali,
No. 31/5/1 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

(Handwritten Signature)
29/7/18

SANKARSAN MUNDA
Asstt. Commissioner of Customs & C. Ex.

