



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

F.No. 373/135/B/13-RA | 121

Date of Issue 30/07/2018

ORDER NO. ⁵⁰⁶/2018-CUS (WZ)/ASRA/MUMBAI DATED 17.07.2018 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. Birdhous Ali Hayath Khan

Respondent : Commissioner of Customs, CSIA, Mumbai.

Subject : Revision Application filed, under Section 129DD of the
Customs Act, 1962 against the Order-in-Appeal No.
MUM-CUSTM-PAX-APP-328/13-14 dated
22.11.2013 passed by the Commissioner of Customs
(Appeals), Mumbai Zone-III.



ORDER

This revision application has been filed by Shri. Birdhous Ali Hayath Khan (herein referred to as Applicant) against the order No. MUM-CUSTM-PAX-APP-328/13-14 dated 22.11.2013 passed by the Commissioner of Customs (Appeals), Mumbai Zone-III.

2. Briefly stated facts of the case are that the applicant, an Indian National was intercepted at the Chatrapati Shivaji International Airport on 07.12.2010. Examination of his baggage resulted in the recovery of Cameras, Video Cameras and Camera lenses valued at Rs. 16,73,454/- (Rupees Sixteen lakhs Seventy Three thousand Four hundred and Fifty four). The original Adjudication Authority vide order JC/RPK/ADJN/32/2011 dated 28.09.2011 confiscated the impugned goods but allowed redemption on payment of fine of Rs. 3,35,000/- (Rupees Three lakhs Thirty Five thousand) under section 111 (d), (l) and (m) of the Customs Act,1962. A penalty of Rs. 3,35,000/- was also imposed on the Applicant under section 112 (a) of the Customs Act, 1962, and confirmed applicable duty of Rs. 15,605/- .

3. Aggrieved by this order the Applicant filed an appeal with the Commissioner of Customs (Appeals), Mumbai Zone-III, The Commissioner (Appeals) vide order in Appeal No. MUM-CUSTM-PAX-APP-328/13-14 dated 22.11.2013 rejected the Appeal of the Applicant.

4. Aggrieved by the order of the Commissioner (Appeals), the Applicant has filed the Revision Application on the grounds that;

4.1 Order of the respondent is against law, weight of evidence and circumstances and probabilities of the case; The valuation of the goods is on the higher side and is at variance with the valuation of identical goods imported by other persons at the same airport; A letter informing the Adjudication authority of the excessive valuation however was not accepted; The Applicant has been involved in any previous offence; The Adjudication authority has failed to consider the margin of profit, the redemption fine, penalty and customs duty will be more than the actual value of the goods;



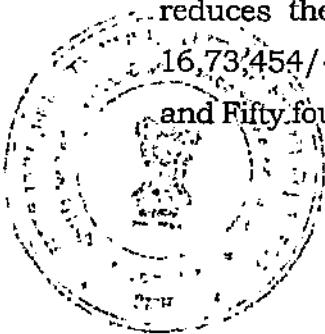
4.3 The Applicant cited various assorted judgments in support of his case and prayed that the Hon'ble Revision Authority may please revalue the goods and reduce the redemption fine and personal penalty and thus render justice.

5. A personal hearing in the case was held on 19.04.2018, the Advocate for the respondent Shri Palanikumar attended the hearing he re-iterated the submissions filed in Revision Application and cited the decisions of GOI/Tribunals in support of his case. Nobody from the department attended the personal hearing.

6. The Government has gone through the facts of the case. The Applicant was carrying goods in commercial quantity, and he had not declared the goods and therefore confiscation is justified.

7. However, Government also observes that there were no allegations of ingenious concealment of the goods. Government notes that the goods have been valued on the higher side. Similar, identical goods have been valued much lower than the goods imported by the Applicant. Government also holds that the margin of profit should also be considered when imposing fine and penalty. 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. Under the circumstances Government holds that the applicant can be treated with a lenient view. 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.


8. Taking into consideration the foregoing discussion, Government reduces the redemption fine imposed on electronic goods valued at Rs. 16,73,454/- (Rupees Sixteen lakhs Seventy Three thousand Four hundred and Fifty four) from Rs. 3,35,000/- (Rupees Three lakhs Thirty Five thousand



) to Rs.2,00,000/- (Rupees Two lakhs) under section 125 of the Customs Act, 1962. Government also observes that facts of the case justify slight reduction in penalty imposed. The penalty imposed on the Applicant is therefore reduced from Rs. 3,35,000/- (Rupees Three lakhs Thirty Five thousand) to Rs. 1,00,000/- (Rupees One lakh) 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.


 17.7.2018
 (ASHOK KUMAR MEHTA)
 Principal Commissioner & ex-officio
 Additional Secretary to Government of India

ORDER No. ⁵⁰⁶/2018-CUS (WZ) /ASRA/MUMBAI DATED 17.07.2018

To,

Shri Birdhous Ali Hayath Khan
 C/o Shri S. Palinikumar, Advocate,
 No. 10, Sukurama Street,
 Second Floor,
 Chennai -600 001.

Copy to:

1. The Commissioner of Customs, Trichy
2. The Commissioner of Cus. & C. Ex. (Appeals), Trichy
3. Sr. P.S. to AS (RA), Mumbai.
4. Guard File.
5. Spare Copy.

ATTESTED


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

