



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

F.No. 373/215/B/16-RA/15032

Date of Issue

ORDER NO. 51/2019-CUS (SZ)/ASRA/MUMBAI DATED 05.12.2019 OF THE GOVERNMENT OF INDIA PASSED BY SMT. SEEMA ARORA, PRINCIPAL COMMISSIONER & EX-OFFICIO ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA, UNDER SECTION 129DD OF THE CUSTOMS ACT, 1962.

Applicant : Shri Chaganlal Tolaji Rawal

Respondent : Commissioner of Customs, Chennai.

Subject : Revision Application filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal No.472/2016 dated 3.06.2016 passed by the Commissioner of Customs (Appeals), Bangalore.

ORDER.

This revision application has been filed by Shri Chaganlal Tolaji Rawal (herein referred to as Applicant) against the order C.Cus-I No. 709/2014 dated 29.04.2014 passed by the Commissioner of Customs (Appeals), Chennai.

2. Briefly stated facts of the case are that the Officers of Customs intercepted the Applicant at the Anna International Airport, Chennai on 28.03.2013. A detailed scrutiny resulted in recovery of 2 gold bars and one gold bit totally weighing two kilograms and 39 grams totally valued at Rs. 60,40,741/- (Rupees Sixty Lakhs Forty thousand Seven hundred and Forty one). The gold was ingeniously concealed in metallic stand of the TV brought by the Applicant.

3. After due process of the law vide Order-In-Original No. 574 (AIR) dated 03.07.2013 the Original Adjudicating Authority ordered absolute confiscation of the gold and TV under Section 111 (d) (l) and (m) of the Customs Act, 1962 and imposed penalty of Rs. 6,00,000/- (Rupees Seven lacs) under Section 112 (a) and (b) of the Customs Act,1962.

4. Aggrieved by this order the applicant filed an appeal with the Commissioner of Customs (Appeals), Commissioner (Appeals) vide his order No. 709/2014 dated 29.04.2014 rejected the appeal of the Applicant.

5. Aggrieved with the above order the Applicant, has filed this revision application interalia on the grounds that;

5.1 The order of the Commissioner (Appeals) is contrary to law and violates the principles of natural justice; The Applicant did not cross the Customs Barrier; The Applicant is an eligible passenger to import gold having worked in UAE for 20 years; The gold was purchased with his hard earned money; The gold ought not to have held as prohibited; The retraction of the statement of the Applicant was neither accepted nor rejected; The gold was kept in the TV carton for safe custody as the Airlines handle TV safely, it being fragile; Concealment would have been if the gold was required to be retrieved using special tools, Had he intended to conceal he would not bring

the purchase invoice; The order has been passed on conjecture and surmises; As he was an eligible passenger import of the gold by him was not prohibited; The reason for not extending section 125 of the CA is not sound and violates the principle of natural justice; Import of gold is not prohibited only regulated; Gold could have been allowed by using discretionary powers;

5.2 The Revision Applicants prayed for setting aside the order of absolute confiscation and penalty, and order release order for re-export of the goods on redemption fine and penalty in the interest of justice and equity.


6. A personal hearings in the case were scheduled on 09.07.2018, 29.08.2019 and 01.10.2019. However neither the Applicants nor the Respondents appeared for the hearing, therefore the case is being decided *ex parte* on merits.

7. The Government has gone through the facts of the case, The gold was not declared as required under section 77 of the Customs Act, 1962 and therefore confiscation of the gold is justified. The facts of the case reveal that, after his baggage was subjected to a search, gold was recovered from metallic stand of the TV brought by the Applicant and therefore the allegation of ingenious concealment is proved. The said offence was committed in a premeditated and clever manner and clearly indicates *mens rea*, and that the Applicant had willfully hidden the gold to escape detection. The Applicant has submitted that he is an eligible passenger to bring gold, however there was no voluntary disclosure of the gold. The Applicant cannot claim eligibility after the gold was detected, and the concealment was detected by the officers after conducting a thorough search of the Applicants baggage, and if he was not intercepted, the gold would have been taken out without payment of customs duty. The above acts have therefore rendered the gold liable for absolute confiscation and the Applicant is accordingly 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 penalty. The impugned Revision Application is therefore liable to be dismissed.

9. Accordingly, The impugned Order in Appeal No. 709/2014 dated 29.04.2014 passed by the Commissioner of Customs (Appeals), Chennai is upheld.

10. Revision application is dismissed.

11. So, ordered.


(SEEMA ARORA)
Principal Commissioner & ex-officio
Additional Secretary to Government of India

ORDER No. 51 /2019-CUS (WZ) /ASRA/

DATED 05.12.2019

To,

Shri Chaganlal Tolaji Rawal,
102-P Ngashetti Koppa,
Old Badam Nagar, Keshwapur,
Hubli, Karnataka-580 -23.

Copy to:

1. The Commissioner of Customs, (Air), New Customs House, Meenambakkam, Chennai.
2. Sr. P.S. to AS (RA), Mumbai.
3. Guard File.
4. Spare Copy.