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

F.No. 373/138-C/B/15-RA

Date of Issue 30/07/2018

ORDER NO. ⁵¹⁶/2018-CUS (SZ)/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. Mohamed Husain

Respondent: Commissioner of Customs, AIA, Chennai.

Subject : Revision Application filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal C. Cus I No. 95/2015 dated 19.03.2015 passed by the Commissioner of Customs (Appeals), Chennai.



ORDER

This revision application has been filed by Shri. Mohamed Husain (herein referred to as Applicant) against the order C. Cus I No. 95/2015 dated 19.03.2015 passed by the Commissioner of Customs (Appeals), Chennai.

2. Briefly stated facts of the case are that the applicant, an Sri Lankan National, bound for Colombo was intercepted at the Anna International Airport on 10.07.2014. Examination of his baggage and person resulted in the recovery of foreign currency valued at Rs. 13,36,500/- (Rupees Thirteen Six lakhs Thirty Six thousand Five hundred). The currency was kept concealed on his person between his inner wear and jeans worn by the applicant. The original Adjudication Authority vide order no. 858/2014 AIU dated 27.01.2015 confiscated the impugned currency. But allowed redemption of the currencies on payment of fine of Rs. 4,50,000/- and also imposed penalty of Rs. 1,25,000/- under Section 112 (a) of the Customs Act,1962. Aggrieved by the said order, the applicant filed appeal before the Commissioner (Appeals) who vide Order-In-Appeal C. Cus No. 95/2015 dated 19.03.2015 rejected the appeal of the applicant..

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

3.1 The order of the appellate authority is bad in law, weight of evidence and probabilities of the case; that both the Respondents failed to see that a true declaration was made by the Applicant and nothing was concealed or misdeclared; The Applicant had no such bad incident in the past; that both the Respondents failed to see that the Applicant had opted for the Red Channel proving his bonafides that he has got dutiable goods. However the officers have totally ignored this and registered a case against the Applicant; that the first appellate authority in an appeal has not considered other relevant points and records to modify and reduce redemption fine and penalty.

3.2 The Revision Applicant prayed for setting aside the orders of the lower authorities and grant relief by setting aside the redemption fine and penalty and thereby render justice.



4. A personal hearing in the case was scheduled to be held on 03.07.2018, the Advocate for the respondent Shri K. Mohammed Ismail in his letter dated 02.07.2018 informed that his clients are unable to send their counsel all the way to Mumbai from Chennai and requested that the personal hearing may be waived and the grounds of the Revision Application may be taken as arguments for this Revision, and decide the cases as per relief sought for in the prayer of the Revision and oblige. Nobody from the department attended the personal hearing.

5. Government has gone through the facts of the case. A written declaration of currency was not made by the Applicant as required under Section 77 of the Customs Act, 1962 and under the circumstances confiscation of the currency is justified. However, the currency was recovered from his person. Government therefore believes that though concealed, there was no ingenious concealment. Such concealments are usually resorted to during travel, and it is common knowledge that large amounts of currency is usually carried in a concealed manner. The Applicant is not a repeat offender and does not have any previous cases registered against him. Taking of currency abroad is restricted and not prohibited.

6. Under the circumstances, the Original adjudication authority has rightly extended the option of redemption of the foreign currency valued at Rs. 13,36,500/- (Rupees Thirteen Six lakhs Thirty Six thousand Five hundred) on payment of redemption fine of Rs. 4,50,000/- and also imposed penalty of Rs. 1,25,000/- under Section 112 (a) of the Customs Act, 1962. Government observes that the redemption fine and the penalty imposed by the adjudication authority is appropriate. The Order-in-Appeal has also rightly upheld the order.

7. The Government therefore finds no reason to interfere with the Order-in-Appeal. The Appellate order 95/2015 dated 19.03.2015 passed by the Commissioner of Customs-(Appeals-I), Chennai, is upheld as legal and proper.



8. Revision application is accordingly dismissed

9. So, ordered.

(Handwritten Signature)
17.7.18

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

ORDER No. ⁵¹⁶/2018-CUS (SZ) /ASRA/Mumbai

DATED 17.07.2018

To,

Shri Mohamed Husain
C/o K. Mohamed Ismail
Advocate
New No. 102 (old No. 271)
Linghi Chetty Street,
Chennai - 1.

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

(Handwritten Signature)
31/8/18

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

