

373/108/B/15-RA

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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. 373/108/B/15-RA

Date of Issue 31/07/2018

ORDER NO. 522/2018-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 Moram Srinivasa Rao

Respondent : Commissioner of Customs, Chennai.

Subject : Revision Application filed, under Section 129DD of the
Customs Act, 1962 against the Order-in-Appeal No. C.
Cus No. 14/2015 dated 23.01.2015 passed by the
Commissioner of Customs (Appeals), Chennai.



ORDER

This revision application has been filed by Shri Moram Srinivasa Rao (herein referred to as Applicant) against the order no 14/2015 dated 23.01.2015 passed by the Commissioner of Customs (Appeals), Chennai.

2. Briefly stated the facts of the case are that the applicant, arrived at the Chennai Airport on 30.07.2014. He was intercepted and during a personal search was found wearing 11 gold bangles weighing 652 gms valued at Rs. 16,81,997/- (Rupees Sixteen lakhs Eighty one thousand Nine hundred and Ninety seven). After due process of the law vide Order-In-Original No. 919/2014 dated 10.10.2014 the Original Adjudicating Authority ordered confiscation of the impugned gold under Section 111 (d) & (l) of the Customs Act read with Section 3 (3) of Foreign Trade (Development & Regulation) Act, 1992. But allowed redemption of the gold on payment of fine of Rs. 6,00,000/- and also imposed penalty of Rs. 1,00,000/- 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. 14/2015 dated 23.01.2015 rejected the appeal of the applicant.

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

4.1 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; that the request for re-export of the gold was not considered; the value adopted by the authorities is on the higher side; 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 both the Respondents have ignored orders of the Government of India reported in ELY 1995 pages 287 to 308, and High Court of judicature at Bombay in its order dated 29.05.2002, Criminal Writ Petition No. 685/2002, wherein re-export has been ordered in similar matters.

4.2 The Revision Applicant prays that the Hon'ble Revision Authority may be pleased to set aside both the lower authorities orders and set aside the re-export fine and penalty and thereby render justice.



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5. 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.

6. The Government has gone through the facts of the case. The Government also observes that the Applicant is a male passenger and that the contention that he had worn the gold bangles does not appear to be true. The Original adjudication authority has rightly pointed out this discrepancy. The Airlines passenger manifest reveals that the Applicant was travelling with his wife and son and the adjudication authority has agreed with the Applicants submissions that the bangles were worn by the wife. The gold was recovered from her person and it was not indigenously concealed. The Applicant is not a repeat offender and does not have any previous cases registered against him. However, a written declaration of gold was not made by the Applicant as required under Section 77 of the Customs Act, 1962 and had he not been intercepted he would have gone without paying the requisite duty, under the circumstances confiscation of the gold is justified.

7. In view of the above the Original adjudication authority has rightly extended the option of redemption of the gold bangles totally weighing 652 gms valued at Rs. 16,81,997/- (Rupees Sixteen lakhs Eighty one thousand Nine hundred and Ninety seven) for re-export on payment of redemption fine of Rs. 6,00,000/- and also imposed penalty of Rs. 1,00,000/- 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.

8. The Government therefore finds no reason to interfere with the Order-in-Appeal. The Appellate order 14/2015 dated 23.01.2015 passed by the Commissioner of Customs (Appeals-I), Chennai, is upheld as legal and proper.



9. Revision Application is dismissed.

10. So, ordered.

(Handwritten Signature)

(ASHOK KUMAR MEHTA)

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

ORDER No. 522/2018-CUS (SZ) /ASRA/Mumbai.

DATED 17.07.2018

To,

Shri Moram Srinivasa Rao
K. Mohamed Ismail
Advocate
New No. 102 (old No. 271)
Linghi Chetty Street,
Chennai - 1.

ATTESTED

(Handwritten Signature)
SANKARSAN MUNDA
Asstt. Commissioner of Custom & C. Ex.

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

