

**REGISTERED  
SPEED POST**

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

F.No. 373/130/B/14-RA/1207

Date of Issue 22.02.2018

ORDER NO. 55/2018-CUS (SZ) / ASRA / MUMBAI/ DATED 21.02.2018 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. Haris

Respondent : Commissioner of Customs(Airport), Chennai.

Subject : Revision Application filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal C.Cus No. 303/2014 dated 25.02.2014 passed by the Commissioner of Customs (Appeals) Chennai.



ORDER

This revision application has been filed by Shri. Haris against the order no C.Cus No. 303/2014 dated 25.02.2014 passed by the Commissioner of Customs (Appeals), Chennai.

2. Briefly stated facts of the case are that the applicant, an Indian National had arrived at the Chennai Airport on 07.07.2013. Examination of his baggage resulted in recovery of assorted goods in commercial quantity totally valued at Rs.1,18,500/- as detailed below;

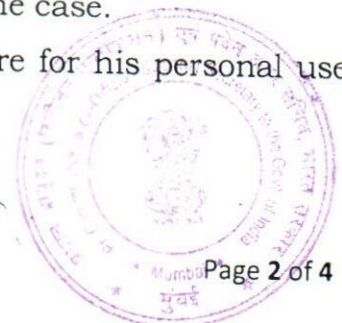
Sl. No.	Description of Goods	Quantity	Amount (in Rs.)
1	Galaxy S2	3	60,000/-
2	Perfumes	10	15,000/-
3	Cloths	175mtrs	17,500/-
		<b>Total</b>	<b>92,500/-</b>
4	Cigarettes	24	26,400/-

The Original Adjudicating Authority, confiscated the goods referred to at Sl. Nos 1, 2 and 3 under Section 111 (d), (l), and (m) of the Customs Act, 1962 and allowed redemption on payment of redemption fine of Rs. 29,000/-. The Cigarettes were confiscated absolutely and an penalty of Rs. 8,000/- under Section 112 (a) of the Customs Act, 1962 was imposed on the Applicant. Aggrieved by this order the Applicant filed an appeal with the Commissioner of Customs (Appeals) Chennai. The Commissioner of Customs (Appeals) Chennai, vide his order C.Cus No. 303/2014 dated 25.02.2014 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 against law, weight of evidence and circumstances and probabilities of the case.

3.2 The items featuring at Sl. No 1, 2 and 3 are for his personal use and cannot be termed as commercial quantity.



3.3 The personal penalty is more than 10% of the value of the goods and is on the higher side. The Redemption fine is 50% of the value of the goods and the same is also required to be reduced reasonably.

3.4 The Hon'ble Supreme Court in the case of Om Prakash vs Union of India has categorically stated that the main object for enactment of the said Act was recovery of excise duties and not really to punish for infringement of its provisions, hence in the interest of justice the impugned order needs to be set aside and Redemption fine and Personal penalty reduced.

The Revision Applicant also cited various assorted judgments in support of his case, and prayed that the Hon'ble Revision Authority may please reduce the redemption fine and penalty imposed on the Applicant.

4. A personal hearing in the case was held on 04.12.2017, the Advocate for the respondent Shri Palanikumar requested for an adjournment due to a medical emergency. The personal hearing was rescheduled on 29.01.2018, which was attended by the Shri Palanikumar. The Advocate, re-iterated the submissions filed Revision Application and cited the decisions of GOI/Tribunals in support of his case. Nobody from the department attended the personal hearing.

5. The Government has gone through the facts of the case. The baggage items /goods were not declared by the passenger as required under Section 77 of the Customs Act, 1962. The goods were also brought in excess quantity. Under the circumstances confiscation of the goods is justified.

6. However, the Applicant was not intercepted while trying to exit the Green Channel. There was no concealment of the goods, and neither was there a concerted attempt at smuggling the goods into India. The Applicant is not a frequent traveller and does not have any previous offence registered against him. There is no allegation of non-declaration. Government, therefore holds that while imposing redemption fine and penalty the applicant can still be treated with a more lenient view.



7. Taking into consideration the foregoing discussion, Government, reduces the redemption fine imposed by the Appellate authority from Rs.29,000/- (Twenty nine thousand) to Rs.15,000/- (Rupees Fifteen thousand). Government also observes that the facts of the case justify slight reduction in the penalty imposed. The penalty imposed on the Applicant is therefore reduced from Rs. 8,000/- (Rupees Eight thousand ) to Rs 4,000/- ( Rupees Four thousand) under section 112(a) of the Customs Act,1962, along with appropriate Customs duty as applicable
8. The impugned Order in Appeal stands modified to that extent.
9. Revision application is partly allowed on above terms.
10. So, ordered.

*Ashok Kumar Mehta*  
21.2.18

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

ORDER No. 55/2018-CUS (SZ) /ASRA/MUMBAI.

DATED 21-02.2018

To,

Shri Haris  
C/o S. Palanikumar, Advocate,  
No. 10, Sunkurama Chetty Street,  
Opp High court, 2<sup>nd</sup> Floor,  
Chennai 600 001.

True Copy Attested

*S. R. Hirulkar*  
26.2.18

एस. आर. हिरुलकर  
S. R. HIRULKAR

Copy to:

1. The Commissioner of Customs, Anna International Airport, Chennai.
2. The Commissioner of Customs (Appeals), Custom House, Rajaji Salai Chennai.
3. Sr. P.S. to AS (RA), Mumbai.
4. Guard File.
5. Spare Copy.

