



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

F.No. 373/397/B/14-RA / 5676

Date of Issue 11.12.19

ORDER NO. 56 /2019-CUS (SZ)/ASRA/MUMBAI DATED 10.12.2019 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 Mohamed Saily Mohamed Musammil

Respondent : Commissioner of Customs, Airport, Cochin.

Subject : Revision Application filed, under Section 129DD of the
Customs Act, 1962 against the Order-in-Appeal No. TVM-EXCUS-
000-APP-070-14-15 Dt. 11.07.2014 dated 11.07.2014 passed by
the Commissioner of Customs (Appeals), Cochin.

ORDER

This revision application has been filed by Shri Mohamed Saily Mohamed Musammil (herein after referred to as the Applicant) against the order in appeal No. TVM-EXCUS-000-APP-070-14-15 Dt. 11.07.2014 dated 11.07.2014 passed by the Commissioner of Customs (Appeals), Cochin.

2. Briefly stated the facts of the case is that the applicant, a Sri Lankan citizen arrived at the Trivandrum International Airport on 10.06.2014. Examination of his baggage and person resulted in the recovery of 2 gold rings, a gold chain and a gold bangle totally weighing 238.43 gms valued at Rs. 6,36,608/- (Rupees Six Lacs Thirty six thousand Six hundred and Eight).

3. The Original Adjudicating Authority vide Order-In-Original No. 43/2014 dated 10.06.2014 ordered confiscation of the impugned gold under Section 111 (d) (l) and (m) of the Customs Act, 1962, but allowed redemption of the same on payment of Rs.1,60,000/- (Rupees One lac Sixty thousand) and imposed penalty of Rs. 95,000/- (Rupees Ninety five thousand) under Section 112 (a) of the Customs Act.

4. Aggrieved by the said order, the applicant filed appeal before the Commissioner (Appeals) who vide Order-In-Appeal No. TVM-EXCUS-000-APP-070-14-15 dated 11.07.2014 rejected the appeal in respect of allowing the gold for redemption.

5. The applicant has filed this Revision Application inter alia on the grounds that; The Appellant neither walked through the green channel nor passed the Customs barrier without declaring the gold worn by him; On declaration he was asked to remove the gold and it was taken into possession; Therefore the finding of non-declaration is totally against facts; The gold was personal jewelry and therefore not prohibited goods, it was intended to be taken back to Sri Lanka at the time of departure; The Applicants statement that the gold was intended for sale is without any evidence; The record of personal hearing is partially pre-written without the presence of the Applicant as part of it is in printed in computer and part is written; The right of a foreign national to wear gold ornaments while coming to India is reiterated by the Hon'ble High Court of Kerala in Re. Vigneshwaran Sethuraman Vs UOI; The used gold was worn by the Applicant and its alleged non-declaration is not factually correct.


5.2 The Revision Applicant prayed for setting aside the impugned order and issue a refund order for the redemption fine and penalty or any other order as may be deemed fit and proper in the facts and circumstances of the case.

6. A personal hearing in the case was scheduled on 09.07.2018, 29.08.2018 and 01.10.2019. Nobody attended the hearing on behalf of the Applicant or the department. The case is therefore being decided exparte on merits.

7. The Government has gone through the facts of the case, The impugned gold was not declared as required under section 77 of the Customs Act,1962. The gold rings were coated with silver colour and the gold chain and bangle were coated to appear as brassware. This fact makes it clear that the intention of the Applicant was to evade payment of Customs duty and smuggle the gold into India. In his statement he has admitted that the gold was brought as a debt payment to be paid to person in India and therefore there was no intention of returning with the gold on his departure from India. The Applicant is a frequent traveler and has been visiting India often, in the past three months he has visited India ten times. The Adjudicating authority, considering these facts and the fact Applicant is a foreigner has already shown leniency and released the gold on redemption fine and penalty. The Appellate authority has rightly upheld the order. Government therefore does not find any reasons to interfere with impugned order. The impugned Order in Appeal is therefore liable to be upheld and the revision application is liable to be dismissed.

8. Revision application is accordingly dismissed.

9. So, ordered.


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

ORDER No. 56/2019-CUS (SZ) /ASRA/

DATED 10-12-2019

To,

Shri Mohamed Saily Mohamed Musammil
 10 A, School Avenue, Station Road,
 Dehiwala,
 SRI LANKA.

Copy to:

1. The Commissioner of Customs, Air Customs, Thiruvananthapuram International Airport.
2. M/s C/o G. Jayprakash, Advocate, Prakasham Pully Lane, Pettah, Trivandrum.
3. Sr. P.S. to AS (RA), Mumbai.
4. Guard File.
5. Spare Copy.