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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. 373/156/B/15-RA

Date of Issue 10/08/2018

ORDER NO. 578/2018-CUS (SZ) / ASRA / MUMBAI/ DATED 30.07.2018 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 Kalimullah  
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-I No.  
169/2015 dated 31.03.2015 passed by the Commissioner of Customs  
(Appeals), Chennai.



ORDER

This revision application has been filed by Shri Mohamed Kalimullah (herein referred to as Applicant) against the Order in Appeal C. Cus No. 169/2015 dated 31.03.2015 passed by the Commissioner of Customs (Appeals), Chennai.

2. Briefly stated the facts of the case are that the applicant, was travelling abroad and was intercepted at the Chennai Airport on 21.06.2014 after clearing immigration. Examination of his baggage and person resulted in the recovery of with foreign currency valued at Rs. 7,44,528/- (Rupees Seven lakhs Forty four thousand Five hundred and twenty eight) from his hand baggage.

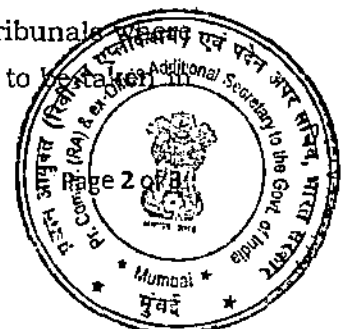
3. After due process of the law vide Order-In-Original No. 785/2014 AIU dated 08.01.2015 the Original Adjudicating Authority ordered confiscation of the currency under Section 113 (d) of the Customs Act read with Section 3 (3) of Foreign Trade (Development & Regulation) Act, but allowed redemption of the same on payment of Rs. 2,50,000/- and imposed penalty of Rs. 50,000/- under Section 114 (i) and (iii) 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. 169/2015 dated 31.03.2015 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 authorities is wholly unfair, unreasonable, unjust, biased, arbitrary and contrary to legal principles; The Applicant has made a fair disclosure before the lower authority as being a petty trader, the facts were however not considered by the lower authority; It is submitted that the appellant forums are usually very considerate in reducing the redemption fine and penalty even in cases of concealment; The Revision authority may kindly consider reduction in fine and penalty which is disproportionate to the offence committed; Currencies not being prohibited goods high redemption fine is harsh and unjustified; The Applicant case is only a technical violation.

4.2 The Revision Applicant cited case laws in his defense and prayed for passing such orders as deem fit and proper in the facts and circumstances of the case and in the interest of justice.

5. A personal hearing in the case was scheduled to be held on 18.07.2018, the Advocate for the respondent Shri B. Kumar attended the hearing, he re-iterated the submissions filed in Revision Application and cited the decisions of GOI/Tribunals. The option for re-export of gold was allowed and requested for a lenient view to be taken in the matter. Nobody from the department attended the personal hearing.



6. The Government has gone through the facts of the case. The Applicants has attempted to take currency abroad beyond permissible limits and under the circumstances confiscation of the currency is justified.

7. However, the facts of the case state that the Applicant had not concealed the impugned currency indigenously. The currency was recovered from the hand baggage of the Applicant. Taking of currency abroad is restricted and not prohibited. There are a catena of judgments which align with the view that the discretionary powers vested with the lower authorities under section 125(1) of the Customs Act, 1962 have to be exercised and the original adjudicating authority has rightly extended the option under section 125 of the Customs Act, 1962. The Applicant has pleaded for reducing the redemption fine and penalty. The Government however observes that the redemption fine of Rs. 2,50,000/- ( Two lakhs Fifty thousand ) on currency valued at Rs. 7,44,528/- (Rupees Seven lakhs Forty four thousand Five hundred and twenty eight) is appropriate. The penalty of Rs. 50,000/- imposed is also appropriate. Under the circumstances, Government is not inclined to interfere with the impugned Order in Appeal.

8. The Revision Application is therefore dismissed.

9. So, ordered.

*Ashok Kumar Mehta*  
30/7/18

(ASHOK KUMAR MEHTA)

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

ORDER No. 578/2018-CUS (SZ) /ASRA/ MUMBAI

DATED 30.07.2018

To,

Shri Mohamed Kalimullah  
c/o M/s L. K. Associates  
"Time Tower" Room No. 5, II Floor,  
169/84, Gengu Reddy Road,  
Egmore, Chennai- 600 008.

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.

**ATTESTED**

*S.R. Hirulkar*  
S.R. HIRULKAR  
Assistant Commissioner (R.A.)

