

REGISTERED  
SPEED POST



सत्यमेव जयते

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. 373/103/B/14-RA/26/2018

Date of Issue 10/08/2018

ORDER NO. 582/2018-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 Abdul Hameed Mohammed Fazal

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. 364/2014 dated 05.03.2014 passed by the Commissioner of Customs (Appeals), Chennai.



ORDER

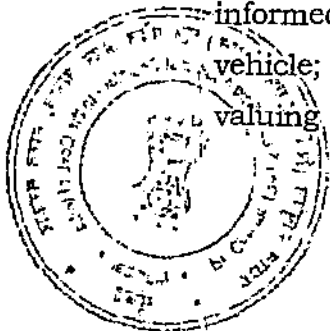
This revision application has been filed by Shri Abdul Hameed Mohammed Fazal (herein referred to as Applicant) against the order no 364/2014 dated 05.03.2014 passed by the Commissioner of Customs (Appeals), Chennai.

2. Briefly stated the facts of the case are that the applicant filed a baggage declaration BD No. 136683/18.10.2013 declaring goods as used clothes , foodstuff, used iron board etc., on examination of the baggage it was also found to contain used 14" and 18" Aluminum rims/ wheels and a BEHR-Hella car condenser and part air conditioner.

3. After due process of the law vide Order-In-Original No. 737/2013 dated 29.10.2013 the Original Adjudicating Authority allowed the foodstuff on payment of appropriate duty. The BEHR-Hella car condenser and part air conditioner valued at Rs. 16,200/- was confiscated and allowed to be redeemed on payment of redemption fine of Rs. 8,000/- . The 14" and 18" Aluminum rims/ wheels were allowed for re-export on payment of redemption fine of Rs. 10,000/- under Section 111 (d), (l), (m) and (o) of the Customs Act read with Section 3 (3) of Foreign Trade (Development & Regulation) Act, and imposed penalty of Rs. 10,000/- 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. 364/2014 dated 05.03.2014 rejected the appeal of the applicant.

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

4.1 The order of the authorities has been passed without considering any of the submissions of the Applicant and is therefore non speaking; The adjudicating authority has not extended the benefit of Rule 3 of the Baggage Rules, 1998 in respect of used personal effects and foodstuffs; The adjudicating authority has erred in holding that the Appellant has not declared the used rims in his baggage declaration as the Applicant vide letter dated 17.10.2013, acknowledged by the Dy. Commissioner has informed that the baggage consisted used very old rusted rims for his vehicle; The value arrived at for the rims was very high, and the method of valuing on the prices prevailing in India is strange; The price fixed for the



car condenser is also arbitrary; The Customs valuation rules have been given a go by and no reasons have been given for why the rims have not been permitted for home clearance.

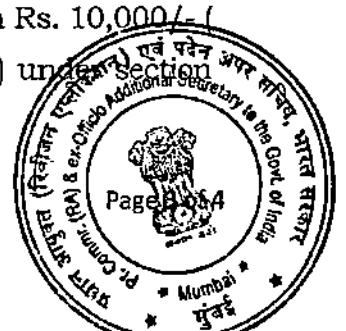
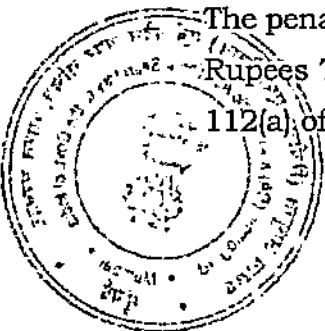
4.2 The Revision Applicant prayed for setting aside the order in appeal and order consequential relief and thus render justice.

5. A personal hearing in the case was scheduled to be held on 23.07.2018, the Advocate for the respondent Shri G. Derrick Sam attended the hearing, he re-iterated the submissions filed in Revision Application and pleaded for setting aside the order in appeal and allow the revision application.

6. The Government has gone through the facts of the case. The Applicant had not declared the items properly in the Baggage declaration and the goods cannot be construed as bonafide baggage, under the circumstances confiscation of the goods is justified. However, the facts of the case state that the goods were recovered from his baggage were old and used and they were not indigenously concealed. Though the Applicant has not made any attempt to conceal the items and it was not a hardcore attempt to smuggle the goods into India. In view of the above facts, the Government is of the opinion that a lenient view can be taken in the matter. The Government is therefore of the opinion that a reduction of the fine and penalty is sufficient to meet the ends of justice. The impugned Order in Appeal therefore needs to be modified.

7. The redemption fine imposed on the BEHR-Hella car condenser and part air conditioner valued at Rs. 16,200/- ( Rupees Sixteen thousand Two hundred is reduced from Rs. 8,000/- (Rupees Eight thousand) to Rs.5,000/- ( Rupees Five thousand ) under section 125 of the Customs Act, 1962. The used 14" and 18" Aluminum rims/ wheels valued at Rs. 20,000/- ( Rupees Twenty thousand) are allowed for home consumption, redemption fine imposed on these goods is reduced from Rs. 10,000/- (Rupees Ten thousand) to Rs.7,000/- ) ( Rupees Seven Thousand ) under section 125 of the Customs Act, 1962. Government also observes that the facts of the case justify reduction in the penalty imposed.

The penalty imposed on the Applicant is therefore reduced from Rs. 10,000/- ( Rupees Ten thousand) to Rs. 5,000/- (Rupees Five thousand ) under Section 112(a) of the Customs Act, 1962.



8. The impugned Order in Appeal is modified as detailed above. Revision application is partly allowed on above terms.

9. So, ordered.

*(Handwritten Signature)*  
20.7.18

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

ORDER No. <sup>582</sup>/2018-CUS (SZ) /ASRA/MUMBAI

DATED 30.07.2018

To,

Shri Abdul Hameed Mohammed Fazal  
c/o Shri G. Derrick Sam  
17, First Cross Street,  
Fourth Avenue,  
Besant Nagar,  
Chennai - 600 090

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**

*(Handwritten Signature)*  
20/7/18

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

