

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. 373/151/B/15-RA | 29

Date of Issue 10/08/2018.

ORDER NO. 590/2018-CUS (SZ) / ASRA / MUMBAI/ DATED 25.07.2018 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 Mohammed Ishtiaq

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. 63/2015 dated 27.02.2015 passed by the Commissioner of Customs (Appeals), Chennai.



ORDER

This revision application has been filed by Shri Mohammed Ishtiaq (herein referred to as Applicant) against the Order in Appeal C. Cus No. 63/2015 dated 27.02.2015 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 19.12.2014. He was intercepted and examination of his baggage resulted in the recovery of 12 nos Sony Xperia C3 mobile and 4 nos used Samsung mobiles totally valued at Rs. 2,04,000/- ( Rupees Two lakhs Four thousand ) and two old and used Hitachi Projectors and Sony 42" LED TV totally valued at Rs. 45,000/- ( Rupees Forty Five thousand ).

3. After due process of the law vide Order-In-Original No. 1529/2014 Batch B dated 19.12.2014 the Original Adjudicating Authority allowed the release of the Sony TV and the Two old and used Hitachi Projectors on applicable customs duty and ordered confiscation of the goods valued at Rs. 2,04,000/- ( Rupees Two lakhs Four thousand ) under Section 111 (d), (l), (m) and (o) of the Customs Act read with Section 3 (3) of Foreign Trade (Development & Regulation) Act. But allowed redemption of the goods on payment of a fine of Rs. 1,02,000/- and imposed penalty of Rs. 20,000/- 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. 63/2015 dated 27.02.2015 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 Appellate authority has failed to appreciate the goods were not concealed and therefore should have shown leniency and reduced fine and penalty; Frequent travel is not an offence under Customs Law; The Two old and used Hitachi Projectors should have been considered under free baggage allowance; The Commissioner should have considered the quantum of penalty to be as per the role paid by the individual; The applicant is not a repeat offender and therefore redemption fine and penalty is harsh and not proportionate; No credence was given to baggage rules by the Adjudicating authorities.



5

4.2 The Revision Applicant cited case laws in his defense and prayed for considering the eligible goods under free allowance and reducing the redemption fine and penalty or any other order as deem fit 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 reiterated the submissions filed in Revision Application and cited the decisions of GOI/Tribunals 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. A written declaration of goods was not made by the Applicant as required under Section 77 of the Customs Act, 1962 and the goods are obviously in commercial quantities and under the circumstances confiscation of the goods is justified. However, the facts of the case state that the Applicant had not concealed the impugned goods indigenously. The applicant had also made no attempt to pass through the green channel and had proceeded towards the red channel. 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. . In view of the above facts, the Government is of the opinion that a lenient view can be taken in the matter. The Applicant has pleaded for reduction of the redemption fine and penalty and the Government is inclined to accept the plea. The impugned Order in Appeal therefore needs to be modified.

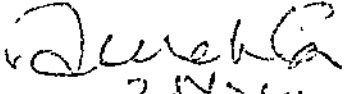
ATTACHED

7. The redemption fine imposed on the assorted electronics valued at Rs. Rs. 2,04,000/- (Rupees Two lakhs Four thousand) is reduced from Rs. 1,02,000/- (Rupees One lakh two thousand) to Rs. 50,000/- ( Rupees Fifty 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. 20,000/- ( Rupees Twenty thousand) to Rs. 10,000/- (Rupees Ten 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.

  
25/7/18

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

ORDER No. 590/2018-CUS (SZ) /ASRA/MUMBAI.

DATED 25.07.2018

To,

Shri Mohammed Ishtiaq  
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**

  
10/7/18  
**S.R. HIRULKAR**  
Assistant Commissioner (R.A.)

