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

F.No. 373/104/B/17-RA/

Date of Issue 10/08/2018

ORDER NO 593/2018-CUS (SZ) / ASRA / MUMBAI/ DATED 02.07.2018 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 A. Sarath kumar

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. 125/17 dated 11.07.17 passed by the Commissioner of
Customs (Appeals), Chennai.



ORDER

This revision application has been filed by Shri A. Sarath kumar (herein referred to as Applicant) against the order no 125/17 dated 11.07.17 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 11.04.2017. A gold chain weighing 170 gms valued at Rs. 4,54,842/- (Rupees Four lakhs Fifty four thousand Eight hundred and Forty two) brought by him was detained as he did not have foreign currency at the time of arrival to pay the appropriate duty. Subsequently, he approached the department own volition for payment of customs duty with Indian Currency. Accordingly a baggage receipt was and duty was collected at baggage rate of duty as per the rules. The Applicant vide letter dated 18.04.2017 requested the department to apply concessional rate as he is an eligible passenger and return the excess duty paid. The Assistant Commissioner of Customs (Air.Admin) vide his letter F. No. S.Misc.15/2016-Admn.AIR dated 08.05.2017 which was rejected.

3. Aggrieved by the said letter of the Assistant Commissioner letter date 08.05.2017, the applicant filed appeal before the Commissioner (Appeals) who vide Order-In-Appeal C. Cus No. 125/17 dated 11.07.17 rejected the appeal of the applicant.

4. Aggrieved with the above order the Applicant has filed this revision application interalia on the grounds that;

4.1 The order of the Commissioner (Appeals) is against law, weight of evidence and circumstances and probabilities of the case; The department assessment order in the case may be treated as the impugned order; As the Applicant is an eligible passenger for concessional rate of duty, duty should have been collected at concessional rate of 10%, however the department has collected duty at the rate of 36.05%; Simply because the Applicant does not have foreign currency duty cannot be collected at baggage rate; The Applicant is working in Sharjah and has come to India after 3 years and these details are available in his passport and therefore he is eligible for bringing 5kg of gold at concessional rate of duty; The Applicant also made a request for obtaining a speaking order which was not furnished and as such this application is being filed without a speaking order. ;

4.3 The Revision Applicant cited judgments and boards policies in support of his case and prayed for return of excess duty paid and thus render justice.

5. A personal hearing in the case was held on 19.04.2018, the Advocate for the respondent Shri Palanikumar attended the hearing. He re-iterated the submissions filed



in Revision Application and submitted that the revision application be decided on merits. Nobody from the department attended the personal hearing.

6. The Government has gone through the facts of the case. The Revision Application has been filed seeking refund off the excess duty paid as the Applicant is eligible passenger for concessional rate of duty. However the Government notes that the Applicant has paid the customs duty in Indian currency. One of the conditions for concessional rate of duty is that the customs duty has to be paid in foreign currency. Hence the Applicant does not fulfill all the conditions for concessional rate of duty. The Assistant Commissioner of Customs (Air.Admin) has rightly denied the refund of duty. The Commissioner (Appeals) has also rightly upheld the denial of refund of excess duty.

7. The Government therefore finds no reason to interfere with the Order-in-Appeal. The Appellate order C. Cus. 125/17 dated 11.07.17 passed by the Commissioner of Customs (Appeals), is upheld as legal and proper.

8. Revision Application is dismissed.

9. So, ordered.

(Handwritten Signature)
2/7/18

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

ORDER No. 593/2018-CUS (SZ) /ASRA/mumbai.

DATED 02.07.2018

To,

Shri A. Sarath kumar
C/o Shri S. Palinikumar,
Advocate,
No. 10, Sukurama Street,
Second Floor,
Chennai -600 001.

ATTESTED

(Handwritten Signature)
10/8/18
S.R. HIRULKAR
Assistant Commissioner (R.A.)

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.

