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POST

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

F.No. 373/121/B/13-RA/1213

Date of Issue 22.02.2018

ORDER NO. 61/2018-CUS (SZ) / ASRA / MUMBAI/ DATED 21.02.2018 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. Hyder Ali

Respondent : Commissioner of Customs(Airport), Chennai.

Subject : Revision Application filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal C.Cus No. 1271/2013 dated 17.09.2013 passed by the Commissioner of Customs (Appeals) Chennai.



ORDER

This revision application has been filed by Shri. Hyder Ali against the order no C.Cus No. 1271/2013 dated 17.09.2013 passed by the Commissioner of Customs (Appeals), Chennai.

2. Briefly stated facts of the case are that the applicant, an Indian National had arrived at the Chennai Airport on 12.02.2013 and brought with him 6 (six) Sony Bravia 32" TV's totally valued at Rs.1,08,000/-.The Original Adjudicating Authority, confiscated the TV's under Section 111 (d), (l), and (m) of the Customs Act,1962 and allowed redemption on payment of redemption fine of Rs. 54,000/-, Duty extra. A penalty of Rs. 11,000/- under Section 112 (a) of the Customs Act, 1962 was also imposed on the Applicant. Aggrieved by this order the Applicant filed an appeal with the Commissioner of Customs (Appeals) Chennai. The Commissioner of Customs (Appeals) Chennai, vide his order C. Cus No. 1271/2013 dated 17.09.2013 rejected the Appeal of the Applicant.

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

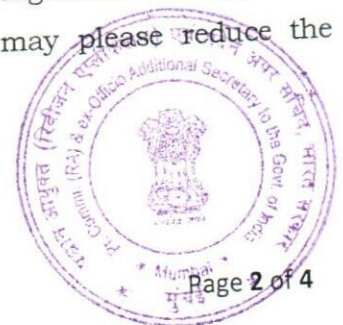
3.1 The order of the appellate authority is against law, weight of evidence and circumstances and probabilities of the case.

3.2 The Sony TV's were brought for his personal use and cannot be termed as commercial quantity. The goods were brought for family members and not for sale.

3.3 The adjudication order states that the Applicant has attempted to evade duty of Rs. 38,934/- and has imposed a Redemption fine 54,000/- and a penalty of Rs. 11,000/- which is too harsh.

3.4 The Personal penalty is more than 10% of the value of the goods, the Redemption fine is 50% of the value of the goods and Customs duty of Rs. 38,934/- has also been collected on the goods. Therefore, Redemption fine and Personal penalty is required to be reduced reasonably.

The Revision Applicant also cited various assorted judgments in support of his case, and prayed that the Hon'ble Revision Authority may please reduce the redemption fine and penalty imposed on the Applicant.



4. A personal hearing in the case was held on 04.12.2017, the Advocate for the respondent Shri Palanikumar requested for an adjournment due to a medical emergency. The personal hearing was rescheduled on 29.01.2018, which was attended by the Shri Palanikumar. The Advocate, re-iterated the submissions filed Revision Application and cited the decisions of GOI/Tribunals etc in support of his case. Nobody from the department attended the personal hearing.
5. The Government has gone through the facts of the case. The 6 (six) Sony TV's goods being brought are clearly in commercial quantity. Under the circumstances confiscation of the goods is justified. However, the Applicant was not intercepted while trying to exit the Green Channel. There was no concealment of the goods, and neither was there a concerted attempt at smuggling the goods into India. The Applicant is a frequent traveller, but does not have any previous offence registered against him. The CBEC Circular 09/2001 gives specific directions to the Customs officer in case the declaration form is incomplete/not filled up, the proper Customs officer should help the passenger record to the oral declaration on the Disembarkation Card and only thereafter should countersign/stamp the same, after taking the passenger's signature." Thus, mere non-submission of the declaration cannot be held against the Applicant. Government, therefore holds that while imposing redemption fine and penalty the applicant can still be treated with a more lenient view.
6. Taking into consideration the foregoing discussion, Government, reduces the redemption fine imposed by the Appellate authority from Rs.54,000/- (Fifty four thousand) to Rs.30,000/- (Rupees Thirty thousand). Government also observes that the facts of the case justify slight reduction in the penalty imposed. The penalty imposed on the Applicant is therefore reduced from Rs. 11,000/- (Rupees Eleven thousand) to Rs 5,000/- (Rupees Five thousand) under section 112(a) of the Customs Act,1962. The Customs duty as applicable shall be paid in accordance with the Customs Act,1962.
7. The impugned Order in Appeal stands modified to that extent.
8. Revision application is partly allowed on above terms.
9. So, ordered.

True Copy Attested

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22-2-18

एस. आर. हिरुलकर
S. R. HIRULKAR
(A-C)



Ashok Kumar Mehta
21.2.18
(ASHOK KUMAR MEHTA)
Principal Commissioner & ex-officio
Additional Secretary to Government of India

ORDER No. 61 /2018-CUS (SZ) /ASRA/~~Mumbai~~

DATED 21/02.2018

To,

Shri Hyder Ali
C/o S. Palanikumar, Advocate,
No. 10, Sunkurama Chetty Street,
Opp High court, 2nd Floor,
Chennai 600 001.

Copy to:

1. The Commissioner of Customs, Anna International Airport, Chennai.
2. The Commissioner of Customs (Appeals), Custom House, Rajaji Salai Chennai.
3. Sr. P.S. to AS (RA), Mumbai.
4. Guard File.
5. Spare Copy.

