

373/332/B/14-RA

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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. 373/332/B/14-RA/13/1A

Date of Issue 14/08/2017

ORDER NO. 623/2018-CUS (SZ)/ASRA/MUMBAI DATED 31.07.2018 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 Padam Chand

Respondent : Commissioner of Customs, International Airport, Bangalore.

Subject : Revision Application filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal C. Cus I No. 216/2014 Cus (B) dated 19.07.2014 passed by the Commissioner of Customs (Appeals), Bangalore.



ORDER

This revision application has been filed by Shri Padam Chand (herein referred to as Applicant) against the order C. Cus I No. 216/2014 Cus (B) dated 19.07.2014 passed by the Commissioner of Customs (Appeals), Chennai.

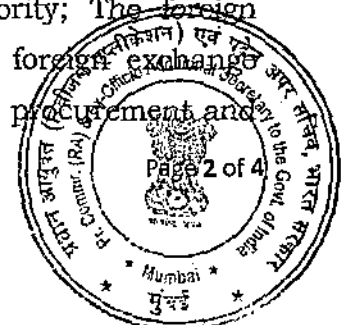
2. Briefly stated facts of the case are that the applicant, an Indian National was travelling to Colombo with his wife Smt. Santosh Bai and cousin Shri Kishore and Smt. Latha Kishore and was intercepted at the Kempegowda International Airport on 29.01.2014. Examination of the baggage of Smt. Latha resulted in the recovery of foreign currency valued at Rs. 2,10,504/- (Rupees Two lakhs Ten thousand Five hundred and Four). In the statement recorded by the Officers, Smt. Santosh Bai, stated that Shri Padam Chand had arranged the foreign currency recovered from her person. In his statement Shri Padam Chand accepted that he had arranged by him.

3. The Original Adjudication Authority vide order no. 01/2014 dated 05.02.2014 absolutely confiscated the impugned currency. A penalty of Rs. 30,000/- was imposed on Smt. Latha under section 112 (a) of the Customs Act, 1962. A penalty of Rs. 10,000/- was also imposed on the Applicant, Shri Padam Chand under section 112 (a) of the Customs Act, 1962.

4. Aggrieved by this order the Applicant filed an appeal with the Commissioner of Customs (Appeals) Chennai, Commissioner of Customs (Appeals) Chennai, vide his order No. 216/2014 Cus (B) dated 19.07.2014, rejected the Appeal of the Applicant.

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

5.1 The order of the Commissioner (Appeals) is not just and proper in the eyes of the law as he has not taken into considerations various pronouncements of the numerous judicial forums in the country and has arbitrarily confirmed the order of the original authority; The foreign currency was procured by him and from authorized foreign exchange dealers as detailed in this appeal and it was not illegal procurement and



was procured from duly authorized foreign exchange dealers; A total of Rs. 45 Lakhs were procured from such sources, a part of which was handed to Smt. Santosh Bai for safe keeping ; Smt. Santosh Bai was not in a proper position to explain the source of the currency at the time of the seizure: Legal currency cannot be seized without an option extended on redemption fine and penalty as per section 125 of the Customs Act,1962; The absolute confiscation of the currency is harsh and against all judicial precedents.

5.2 The Revision Applicant cited various other assorted judgments and boards policies in support of his case and prayed for quashing the impugned order in Appeal with consequential benefits and thus render justice.

6. A personal hearing in the case was held on 30.05.2018, the Advocate for the respondent Shri A. Ganesh attended the hearing. He re-iterated the submissions filed in Revision Application and pleaded for reduction in penalty. Nobody from the department attended the personal hearing.

7. The Government has gone through the case records, the findings of the Appellate authority state that the Applicant had produced copies of the purchase bills as obtained legally, and evidencing purchase of the currency from a registered foreign exchange dealer, albeit not at the time of interception. The Appellate authority disregarded this documentary evidence as it was not produced earlier before the investigating officer. The Government however observes that the bills should have been properly checked and scrutinized for its evidentiary value. Further, the facts of the case do not suggest that the Applicant has been involved in such offences earlier. There is also no requirement to declare currency below \$10,000, and taking of currency abroad is restricted and not prohibited. The Government is therefore inclined to take a lenient view in the matter. The impugned Order in Appeal therefore needs to be modified and the penalty imposed on the Applicant is liable to be reduced.

8. In view of the above, the penalty imposed on the Applicant is therefore reduced from Rs. 10,000/- (Rupees Ten thousand) to Rs.7,000/- (Rupees Seven thousand) under section 112(a) of the Customs Act,1962.



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

10. So, ordered.

Ashok Kumar Mehta
31.7.18

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

ORDER No. ⁶²³/2018-CUS (SZ) /ASRA/MUMBAI. DATED 31.07.2018

To,

Shri Padam Chand
C/o Shri A. Ganesh, Advocate.
'F' Block 179, New No. 8,
IV Street, Anna Nagar (East)
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Chennai - 600 102.

Copy to:

1. The Commissioner of Customs, Bangalore
2. The Commissioner of Cus. & C. Ex. (Appeals) Bangalore
3. Sr. P.S. to AS (RA), Mumbai.
4. ~~Guard File.~~
5. Spare Copy.

ATTESTED

S.R. Hirulkar
14/7/18
S.R. HIRULKAR
Assistant Commissioner (R.A.)

