

373/147/B/14-RA  
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. 373/147/B/14-RA / 1216

Date of Issue 22.02.2018

ORDER NO. 64/2018-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. A Mohamed Sultan.

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. 279/2014 dated 20.02.2014 passed by the Commissioner of Customs (Appeals) Chennai.



ORDER

This revision application has been filed by Shri. A Mohammed Sultan against the order no C.Cus No. 279/2014 dated 20.02.2014 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 12.08.2012. The Applicant was intercepted in the Arrival hall as he was attempting to pass through the Green Chanel. Examination of his baggage resulted in recovery of assorted electronic goods in commercial quantity totally valued at Rs.4,89,500/- as detailed below;

Sl. No.	Description of Goods	Quantity	Amount (in Rs.)
1	Fururno GPS Antena Unit-Type GPA-017 (Model-CE 0560)	7	3,500/-
2	Gramin GPS 128 with accessories	2	10,000/-
3	Fururno cord	6	3,000/-
4	Canon DM XMZE Handy Cam (old)	1	20,000/-
5	Panasonic AVC cam (SI. NO. B9TAV0438	1	1,75,000/-
6	Sony Digital Cam Corder ( HDV 10801-SI No. 125201)	1	1,75,000/-
7	LCD Projector- Model No. PT LB 3EA ( SI. No. TA23103T1 & TA2310339	2	1,00,000/-
8	Cannon Battery pack	4	2000/-
9	Sony Battery pack	2	1000/-
		Total	4,89,500/-

The Applicant was arrested and subsequently released on bail. As the appellant had not declared the impugned goods and the goods were in commercial quantity the Original Adjudicating Authority, vide his order 616 dated 05.08.2013 confiscated the



all the above mentioned items under Section 111 (d), (l), and (m) of the Customs Act, 1962 and allowed re-export on the request of the Applicant on payment of Redemption fine of Rs. Rs.2,45,000/-. Penalty of Rs. 50,000/- was also imposed under Section 112 (a) of the Customs Act, 1962 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. 279/2014 dated 20.02.2014 rejected the Appeal of the Applicant.

3. Aggrieved with the above order the Applicant has filed this revision application inter alia 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 goods were purchased at a lesser price and the purchase bills were shown to the officers. But the officers fixed the price as per the internet rates. In an earlier order an identical No. 40/2010 dated 07.02.2010 the same Sony Handycam was valued at Rs. 80,000/- but in this order the Original Adjudicating Authority has valued it at 1,75,000/-.

3.3 Though the Applicant was willing to make a proper declaration and pay appropriate duty, he was arrested by the officers.

3.4 Apex court in the case of M/s Agrawal Distributors (P) Ltd. Vs Commissioner of Customs, New Delhi has held that documents displayed on the internet are not reliable being unsigned and internet prices not reliable documents to calculate value.

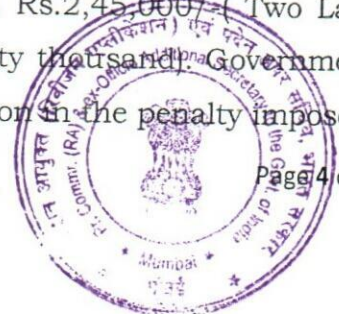
3.5 That all in all his previous offences adjudication is over and he has paid the appropriate duty, redemption fine and personal penalty.

3.6 That the redemption fine of Rs. 2,45,000/- and and penalty of Rs. 50,000/- is very high and unreasonable.

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



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 Applicant, opted for the green channel and it appears that he had tried to evade paying proper customs duty. The electronic goods were also not declared by the passenger as required under Section 77 of the Customs Act, 1962. If the Applicant was not intercepted he would have walked away. Thus there was an attempt to evade the payment of Customs duty. Under the circumstances confiscation of the gold is justified.
6. However, the Applicant was arrested and released on bail. As a followup action his residence was searched, however nothing incriminating was recovered. It also appears that the valuation of the goods detailed above is on the higher side. There was no concealment of the goods, and neither was there a concerted attempt at smuggling the goods into India. The facts of the case also state that the Applicant had not cleared the Green Channel exit and was intercepted before the exit. 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 be treated with a lenient view.
7. Taking into consideration the foregoing discussion, Government, reduces the redemption fine imposed by the Appellate authority from Rs.2,45,000/- (Two Lacs Forty five thousand) to Rs 1,50,000/- (Rupees One lac Fifty thousand). Government also observes that the facts of the case justify slight reduction in the penalty imposed.



373/147/B/14-RA

The penalty imposed on the Applicant is therefore reduced from Rs. 50,000/- (Rupees Fifty thousand ) to Rs30,000/- ( Rupees Thirty thousand) under section 112(a) of the Customs Act,1962.

8. The impugned order stands modified to that extent.
9. Revision application is partly allowed on above terms.
9. So, ordered.

*Ashok Kumar Mehta*  
21.2.2018

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

ORDER No. 64/2018-CUS (SZ)/ASRA/MUMBAI

DATED 21.02.2018

To,

Shri A. Mohamed sultan.  
C/o S. Palanikumar, Advocate,  
No. 10, Sunkurama Chetty Street,  
Opp High court, 2<sup>nd</sup> Floor,  
Chennai 600 001.

True Copy Attested

*S. R. Hirulkar*  
22-2-18  
एस. आर. हिरुलकर  
S. R. HIRULKAR  
(A-C I)

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.



15

1996-97  
1997-98

