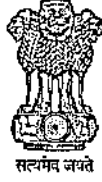


REGISTERED
SPEED POST

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

F.No. 373/103/B/15-RA/⁶⁵³1167

Date of Issue 06/09/2018

ORDER NO. ⁶⁵³72018-CUS (SZ)/ASRA/MUMBAI DATED 30.08.2018 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 Jahir Hussain

Respondent : Commissioner of Customs, Chennai.

Subject : Revision Application filed, under Section 129DD of the
Customs Act, 1962 against the Order-in-Appeal C. Cus-I
No. 72/2014 dated 20.11.2014 passed by the
Commissioner of Customs (Appeals-I), Chennai.



ORDER

This revision application has been filed by Shri Jahir Hussain (herein after referred to as the Applicant) against the order in appeal No. 72/2014 dated 20.11.2014 passed by the Commissioner of Customs (Appeals-I), Chennai.

2. Briefly stated the facts of the case is that the applicant arrived at the Chennai International Airport on 19.05.2014. Examination of his baggage resulted in the recovery of four pieces of gold rods weighing 444 gms valued at Rs. 13,03,584/- (Rupees Thirteen Lakhs Three thousand Five hundred and eighty four) and one Samsung TV. The gold rods were indigenously concealed in the wall mounting steel brackets for TVs carried by him as baggage.

3. The Original Adjudicating Authority vide Order-In-Original No. 682/2014 dated 09.07.2014 ordered absolute confiscation of the impugned gold under Section 111 (d), and (l) of the Customs Act read with Section 3 (3) of Foreign Trade (Development & Regulation) Act, and imposed penalty of Rs. 1,00,000/- under Section 112 (a) of the Customs Act. The Samsung TV was released on applicable duty.

4. Aggrieved by the said order, the applicant filed appeal before the Commissioner (Appeals) who vide Order-In-Appeal No. 72/2014 dated 20.11.2014 rejected the appeal of the applicant.

5. The applicant has filed this Revision Application interalia on the following grounds that;

5.1 The order of the appellate authority is unjust, unfair unreasonable biased and arbitrary; The passenger has given a statement that he is willing to identify the said Mustafa who gave him the wall mounting steel bracket and has not retracted his statements; Both the authorities failed to see that the applicant was a victim of circumstances and was conned into carrying the wall brackets as a genuine item; The TV was purchased by him and the wall brackets were of a different make as they were given to him by Mustafa; A prudent man would have purchased the TV and wall brackets from the same brand; The department has not produced any evidence apart from the involuntary statement of the Applicant; The mensrea for smuggling the gold has not been established with the statement for or any tangible evidence; The Applicant



agreed to carry the item without the knowledge of the concealed gold; The Commissioner (Appeals) has erred in imposing penalty on the higher side inspite of the applicant pleadings that he agreed to carry the item without the knowledge that gold was concealed in the item; Considering the totality of the case without any corroborative evidence the penal provisions may be dropped.

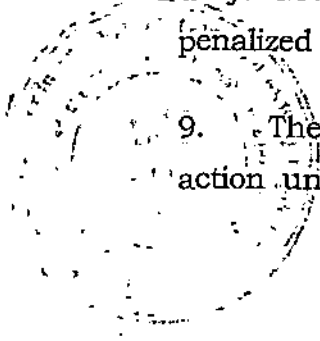
5.2 The Applicant submitted case laws in favor of his case and prayed for taking this memorandum of Appeal on record and pass such order as may be fit and proper in the facts and circumstances of the case.

6. A personal hearing in the case was scheduled to be held on 09.08.2018, the Advocate for the respondent Shri B. Kumar attended the hearing, he reiterated the submissions filed in Revision Application and pleaded for setting aside the order in appeal and prayed for a lenient view in the matter.

7. The Government has gone through the case records it is observed that the gold bars were indigenously concealed in the steel wall brackets carried by the Applicant as baggage. The concealment was planned so as to avoid detection and evade Customs duty and smuggle the gold into India. The Applicant has also disowned by the Applicant and he has not made any claim for the gold, nor justified or defended its concealment. Under the circumstances the absolute confiscation of the gold is justified.

8. The facts of the case also reveal that the TV bracket was handed over to him by another person in Singapore to be carried to India. The Applicant was offered monetary benefits to carry the gold to India and he agreed to the transaction. The fact remains that the TV wall mounts and brackets are available in India and someone offering Rs. 15,000/- just to carry the brackets into India should have alerted the Applicant. The Government is not convinced that the Applicant was as innocent as made out to be in his revision application. This is not a simple case of mis-declaration. If the Applicant was not intercepted before the exit, he would have taken out the gold without payment of customs duty. Government therefore notes that the Applicant needs to be suitable penalized so as to dissuade the Applicant from such acts in future.

9. The above acts have therefore rendered the Applicant liable for penal action under section 112 (a) of the Customs Act, 1962. The Government



[Handwritten signature]

therefore holds that the Original Adjudicating Authority has rightly confiscated the gold absolutely and imposed a penalty of Rs. 1,00,000/-. The Government also holds that Commissioner (Appeals) has rightly upheld the order of the original adjudicating authority.

8. The Government therefore finds no reason to interfere with the Order-in-Appeal. The Appellate order 72/2014 dated 20.11.2014 passed by the Commissioner of Customs (Appeals), Chennai is upheld as legal and proper.

9. Revision Application is dismissed.

10. So ordered.

(Handwritten signature)
20/8/18

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

ORDER No. ⁶⁵²/2018-CUS (SZ) /ASRA/MUMBAI,

DATED 30.06.2018

To,

Shri Jahir Hussain
c/o M/s B. 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 & Central Excise (Appeals), Chennai.
3. Sr. P.S. to AS (RA), Mumbai.
4. Guard File.
5. Spare Copy.

ATTESTED

(Handwritten signature)
10.9.18
S.R. HIRULKAR
Assistant Commissioner (R.A.)

