



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/15-RA

Date of Issue 06/09/2018

ORDER NO. ⁶⁵³/2018-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 Hussain Shahul Hamid

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.
94/2014 dated 20.11.2014 passed by the Commissioner of
Customs (Appeals-I), Chennai.



ORDER

This revision application has been filed by Shri Hussain Shahul Hamid (herein referred to as Applicant) against the Order in Appeal C. Cus-I No. 94/2014 dated 20.11.2014 passed by the Commissioner of Customs (Appeals-I), Chennai.

2. Briefly stated the facts of the case are that the applicant, arrived at the Chennai International Airport on 12.09.2014. He was intercepted and examination of his baggage and person resulted in the recovery of 5 HTC one Mobiles 19 PS3 cassettes and 40 LED lights totally valued at Rs. 1,40,400/- (Rupees One lakh Forty thousand four hundred) alongwith one Sony TV and one DCR camera.

3. After due process of the law vide Order-In-Original No. 1148/2014 Batch D dated 12.09.2014 the Original Adjudicating Authority ordered confiscation of the goods, under Section 111 (d) (l), (m) and (o) of the Customs Act read with Section 3 (3) of Foreign Trade (Development & Regulation) Act. But allowed redemption of the goods on payment of redemption fine of Rs. 72,000/- under Section 112 (a) of the Customs Act, 1962. The Sony TV and Camera was allowed giving duty free allowance and applicable Customs duty. A penalty of Rs. 15,000/- was also imposed on the Applicant under section 112 of the Customs Act, 1962.

4. Aggrieved by the said order, the applicant filed an appeal before the Commissioner (Appeals) who vide Order-In-Appeal No. 94/2014 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 authorities is wholly unfair, unreasonable, unjust, biased, arbitrary and contrary to legal principles; The department had no case of any misdeclaration , non declaration or concealment; The goods are freely importable and the Applicant has followed the provisions of section 77 of the Customs Act, 1962 and baggage rules; The goods was legally acquired by him out of his earnings and cannot be considered as commercial goods; The Appellate authority has failed to take into account that a true declaration was made by the Applicant; The Applicant has not brought any restricted or prohibited goods; The goods were brought for use



personal and family use; The goods were declared with the intention of paying appropriate duty; The quantum of penalty has to be proportionate to the role played by the individual especially as there is no charge of misdeclaration or concealment.

5.2 The Applicant submitted case laws in favor of his case and prayed for allowing eligible goods under free allowance and reducing the redemption fine and penalty as may be fit and proper in the facts and circumstances of the case and render justice.

5. 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 cited the decisions of GOI/Tribunals and requested for a lenient view to be taken in the matter. Nobody from the department attended the personal hearing.

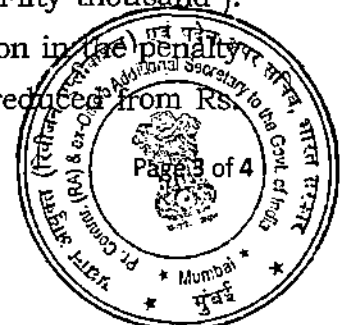
6. The Government has gone through the facts of the case. The goods brought by the Applicant are definitely more in quantity than can be allowed as baggage and under the circumstances confiscation of the goods is justified.

7. However, the facts of the case state that the Applicant had not cleared the Green Channel. There is no allegation that the Applicant had tried to pass through the green channel. There is no allegation of concealment of the goods and the Applicant made no attempt to walk out without declaration. The goods are in more in quantity than can be allowed as baggage, However the same are not so much so as to constitute commercial quantity. There are a catena of judgments which align with the view that the discretionary powers vested with the lower authorities under section 125(1) of the Customs Act, 1962 have to be exercised.

In view of the above facts, the Government is of the opinion that a more lenient view can be taken in the matter. The Applicant has pleaded for reduction of redemption fine penalty and the Government is inclined to accept the plea. The impugned Order in Appeal therefore needs to be modified.

9. The redemption fine of Rs. 72,000/- (Rupees Seventy two thousand) imposed on the impugned goods valued at Rs. 1,40,400/- (Rupees One lakh Forty thousand four hundred) is reduced to Rs.50,000/- (Rupees Fifty thousand).

Government observes that the facts of the case justify reduction in the penalty imposed. The penalty imposed on the Applicant is therefore reduced from Rs.



15,000/- (Rupees Fifteen thousand) to Rs.10,000/- (Rupees Ten thousand) under section 112(a) of the Customs Act,1962.

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

11. So, ordered.

Ashok Kumar Mehta
27/8/18

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

ORDER No. ⁶⁵³ /2018-CUS (SZ) /ASRA/MUMBAI

DATED 30.08.2018

To,

Shri Hussain Shahul Hamid
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

S.R. Hirulkar
6/9/18
S.R. HIRULKAR
Assistant Commissioner (R.A.)

