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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/16-RA / 20

Date of Issue 06/09/2018

ORDER NO. 655/2018-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 Shaul Hameed

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. 155/2016 dated 24.03.2016 passed by the Commissioner of Customs (Appeals-I), Chennai.



ORDER

This revision application has been filed by Shri Shaul Hammed (herein after referred to as the Applicant) against the order in appeal No. 155/2016 dated 24.03.2016 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 06.09.2015. Examination of his baggage resulted in the recovery of two gold rods weighing 200 gms valued at Rs. 5,35,600/- (Rupees Five Lakhs Thirty Five thousand Six hundred) and one SONY TV. The gold bars were indigenously concealed in the soles of the footwear worn by the Applicant.

3. The Original Adjudicating Authority vide Order-In-Original No. 396/2015-16-AIRPORT dated 05.01.2016 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. 53,000/- under Section 112 (a) of the Customs Act. The SONY 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. 155/2016 dated 24.03.2016 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 order in appeal is harsh and not proportionate to the offence committed by the Applicant; The gold was Both the authorities failed to see that the applicant was a victim of circumstances and was conned into carrying the chappals as a genuine item; The Applicant agreed to carry the items for a monetary consideration of Rs. 5,000/- The alleged offence was not intentional and it has been due to being a victim of circumstances; Merely because the goods are liable to confiscation it is not always necessary to imposed penalty; The fact that the Applicant had no knowledge in commission of the offence;



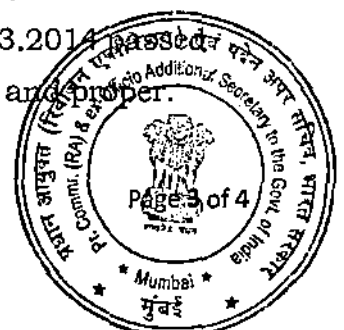
5.2 The Applicant submitted case laws in favor of his case and prayed for taking this memorandum of Appeal on record and render justice.

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 soles of the footwear worn by the Applicant. The concealment was planned so as to avoid detection and evade Customs duty and smuggle the gold into India. so as to avoid detection and evade Customs duty and smuggle the gold into India. This is not a simple case of mis-declaration. In this case the Applicant has blatantly tried to smuggle the gold into India in contravention of the provisions of the Customs, 1962. The release on concessional rate of duty also cannot be entertained as the Applicant has not declared the gold as required under Section 77 of the Customs Act, 1962. The said offence was committed in a premeditated and clever manner and clearly indicates mensrea, and that the Applicant had no intention of declaring the gold to the authorities and if he was not intercepted before the exit, the Applicant would have taken out the gold without payment of customs duty.

8. The above acts have therefore rendered the Applicant liable for penal action under section 112 (a) of the Customs Act, 1962. The Government therefore holds that the Original Adjudicating Authority has rightly confiscated the gold absolutely and imposed a penalty. The Government also holds that Commissioner (Appeals) has rightly upheld the order of the original adjudicating authority.

9. The Government therefore finds no reason to interfere with the Order-in-Appeal. The Appellate order C. Cus. No. 155/2016 dated 24.03.2014 passed by the Commissioner of Customs (Appeals), is upheld as legal and proper.



10. Revision Application is dismissed.

11. So ordered.

(Signature)
20/06/18

(ASHOK KUMAR MEHTA)

Principal Commissioner & ex-officio
Additional Secretary to Government of India

ORDER No. ⁶⁵⁵/2018-CUS (SZ) /ASRA/MUMBAI

DATED 30.06.2018

To,

Shri Shaul Hameed
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

(Signature)
20/6/18

SANKARSAN MUNDA
Asstt. Commissioner of Custom & C. Ex.

