

373/122/B/14-RA  
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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. 373/122/B/14-RA/1219

Date of Issue 22.2.2018

ORDER NO. 67/2018-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. Shinnasamy Sundar Raj.

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. 1763/2013 dated 04.12.2013 passed by the Commissioner of Customs (Appeals) Chennai.



ORDER

This revision application has been filed by Shri. Shinnasamy Sundar Raj against the order no C.Cus No. 1763/2013 dated 04.12.2013 passed by the Commissioner of Customs (Appeals), Chennai.

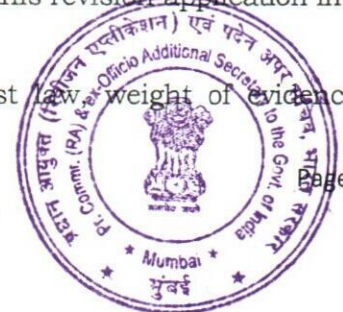
2. Briefly stated facts of the case are that the applicant, an Indian National had arrived at the Chennai Airport on 24.12.2012. The Applicant was intercepted in the Arrival hall as he was attempting to pass through the Green Channel. Examination of his baggage resulted in recovery of electronic goods in commercial quantity totally valued at Rs.16,43,000/- as detailed below;

Sl. No.	Description of Goods	Quantity	Rate CIF (in Rs.) ( Approx)	Amount (in Rs.)
1	13.3 inch Apple Macbook Pro Model No. A1278 Serial No. C1MJYWMDTY3 Assembled in China.	1	43,000/-	43,000/-
2	Sony Digital HD Video Camera Recorder Made in Japan Model No Cam Corder ( HDV 10801-SI No. 125201)	8	2,00,000/-	16,00,000/-
		Total		16,43,000/-

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 594/2013 dated 17.07.2013 released the Apple Macbook valued at Rs. 43,000/- to the Applicant in terms if Notification No. 11/2004 dated 08.01.2004 and confiscated the 8 nos. Sony Digital HD Video Camera Recorders 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. 8,00,000/-. Penalty of Rs. 1,60,000/- 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. 1763/2013 dated 04.12.2013 considering the circumstances of the case reduced the Redemption fine imposed to Rs. 3,00,000/- and also reduced the penalty to Rs. 50,000/-.

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 He was denied the opportunity of declaring the goods, and though he was having the purchase bill he was not allowed to present it and he was arrested by the officers.

3.3 There was no allegation that he had attempted to exit through the Green Channel as the remarks on 24.12.2012 state that after having collected his checked in Baggage was found moving suspiciously near the conveyer belt.

3.4 The Authority could have released the goods on payment of duty, instead of adjudicating the case and imposing redemption fine and penalty.

3.5 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.

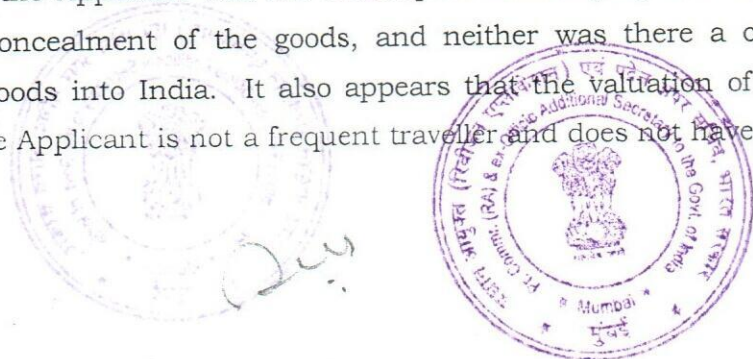
3.6 That the redemption fine of Rs. 3,00,000/- and penalty of Rs. 50,000/- is very high and unreasonable.

The Revision Applicant also cited various assorted judgments in support of his case, and prayed 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 electronic goods were not declared by the passenger as required under Section 77 of the Customs Act, 1962 and it appears that he had tried to evade paying proper customs duty. The electronic goods were brought in commercial quantity and the Applicant was not eligible to import the same. Thus there was an attempt to evade the payment of Customs duty. Under the circumstances confiscation of the goods is justified.

6. However, the Applicant was not intercepted while trying to exit the Green Channel. There was no concealment of the goods, and neither was there a concerted attempt at smuggling the goods into India. It also appears that the valuation of the goods is on the higher side. The Applicant is not a frequent traveller and does not have any previous offence



373/122/B/14-RA  
registered against him. 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 also observes that the Applicant has already been given considerable relief by the Appellate Authority. Government holds that while imposing redemption fine and penalty the applicant can still be treated with a more lenient view.

7. Taking into consideration the foregoing discussion, Government, reduces the redemption fine imposed by the Appellate authority from Rs.3,00,000/- ( Three Lacs) to Rs. 2,00,000/- (Rupees Two lacs). Government also observes that the facts of the case justify slight reduction in the penalty imposed. The penalty imposed on the Applicant is therefore reduced from Rs. 50,000/- (Rupees Fifty thousand ) to Rs 30,000/- ( Rupees Thirty thousand) under section 112(a) of the Customs Act,1962.

8. The impugned Order in Appeal stands modified to that extent.

9. Revision application is partly allowed on above terms.

10. So, ordered.

*(Signature)*  
21-2-2018

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

ORDER No. 67/2018-CUS (SZ) /ASRA/ Mumbai

DATED: 21.02.2018

To,

True Copy Attested

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

*(Signature)*  
22-2-18

एस. आर. हिरुलकर  
S. R. HIRULKAR  
(A-C)

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.

