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

F.No. 371/7A/B/2015-RA

1730

Date of Issue 12.10.2018.

ORDER NO. 687/2018-CUS (SZ) / ASRA / MUMBAI/ DATED 27.08.2018 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 Omerdin Nagoor Anifa
Respondent : Commissioner of Customs, Mumbai.
Subject : Revision Application filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal No. MUM-CUSTOM-PAX-APP-539/14-15 dated 17.11.2014 passed by the Commissioner of Customs (Appeals), Mumbai - III.



ORDER

This revision application has been filed by Shri Omerdin Nagoor Anifa (herein referred to as Applicant) against the Order in Appeal C. Cus No. MUM- CUSTM-PAX-APP-539/14-15 dated 17.11.2014 passed by the Commissioner of Customs (Appeals), Mumbai – III.

2. Briefly stated the facts of the case are that the applicant, a foreign national arrived at the CSI Airport on 01.10.2012. He was intercepted and examination of his baggage and person resulted in the recovery of Indian currency of Rs. 1,00,000/- (One lakh).

3. After due process of the law vide Order-In-Original No. Air Cus 49/M-III/5953/2012 dated 01.10.2012 the Original Adjudicating Authority ordered absolute confiscation of the currency under the provision of the of the Customs Act, 1962 read with FEMA, 1999 and RBI guidelines. A penalty of Rs. 10,000/- was also imposed under Section 112 (a) of the Customs Act, 1962

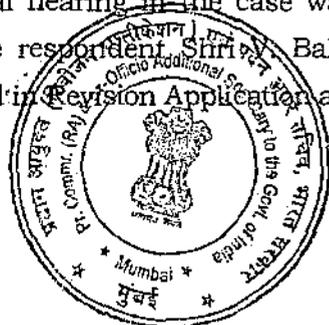
4. Aggrieved by the said order, the applicant filed an appeal before the Commissioner (Appeals) who vide Order-In-Appeal No. MUM-CUSTM-PAX-APP-539/14-15 dated 17.11.2014 reduced the penalty to Rs. 2,500 and modified the order in original giving relief to the applicant.

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

5.1 The applicant submits that he was not aware of the law and it was a bonafide error and there was no intention to commit the offence; The currency was brought for making certain purchases for his business; The Commissioner Appeals has relied on two judgements to confirm absolute confiscation, However the fact of both the cases are entirely different from the facts of this case; In one case the currencies were concealed and in the other case postal consignments contained currencies for export; The Applicant is a foreign national and has brought the currency for making purchases for his business.

5.2 The Revision Applicant cited case laws in his favour and pleaded that the order in Appeal be set aside and allow redemption of the currency and also prayed that the penalty be set aside and render justice.

6. A personal hearing in the case was scheduled to be held on 21.08.2018, the Advocate for the respondent, Shri V. Balan attended the hearing, he re-iterated the submissions filed in Revision Application and cited the decisions of GOI/Tribunals and



pleaded for re-export of the currency on nominal fine and penalty. Nobody from the department attended the personal hearing.

7. The Government has gone through the facts of the case. The Indian currency above the limit of Rs. 7500/- is not permitted to be brought in India and therefore under the circumstances confiscation of the goods is justified.

8. However, the facts of the case state that the Applicant is a Singapore citizen and a foreign national, and he has stated he was not aware of Indian Law. There is no allegation that the Indian currency was concealed in any manner. The facts of the case do not in any manner reveal that the offence was committed with an intention to hoodwink the authorities. This appears to be a genuine case of ignorance of Indian law and the Applicant being a foreign national a lenient view can be taken in the case. The absolute confiscation of the currency is harsh and unjustifiable. The Applicant has pleaded for release of the currency on redemption fine and penalty and the Government is inclined to accept his plea. The impugned Order in Appeal therefore needs to be modified.

9. The absolute confiscation of the Indian currency is set aside. The impugned currency of Rs. 1,00,000/- (Rupees one lakh) is allowed to be redeemed on payment of redemption fine of Rs. 25,000/- (Rupees Twenty Five thousand). . The penalty of Rs. 2,500/- (Two thousand Five hundred is imposed on the Applicant is appropriate.

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

11. So, ordered.

(Signature)
27.8.18

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

ORDER No. 687/2018-CUS (SZ) /ASRA/MUMBAI

DATED 27.08.2018

To,

Shri Omerdin Nagoor Anifa
No. 37 (20) Marraikkar Labbai Street,
Mannady, Chennai- 600 001.

ATTESTED

Copy to:

1. The Commissioner of Customs, CSI Airport, Mumbai.
2. The Commissioner of Customs (Appeals), Mumbai-III.
3. Sr. P.S. to AS (RA), Mumbai.
4. Guard File. 5. Spare Copy.

S.R. HIRULKAR
Assistant Commissioner (R.A.)

