

REGISTERED

SPEED POST



F. No. 372/64/B/2018-R.A.
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

14, HUDCO VISHALA BLDG., B WING
6th FLOOR, BHIKAJI CAMA PLACE,
NEW DELHI-110 066

Date of Issue... 28/8/19

ORDER NO. 7/19-Cus dated 28-8-2019 OF THE GOVERNMENT OF INDIA, PASSED BY SMT. MALLIKA ARYA, ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA, UNDER SECTION 129DD OF THE CUSTOMS ACT, 1962.

SUBJECT : Revision Application filed, under section 129DD of the Customs Act, 1962 against the Order-in-Appeal No. 49/CUS/CCP-GST/2018 dated 30/08/2018 passed by the Commissioner (Appeals), GST, Central excise & Customs, Bhubaneswar.

APPLICANT : Amit D. Senani, Thane.

RESPONDENT : Commissioner of Customs, Bhubaneswar.

ORDER

A Revision Application No. 372/64/B/2018-RA dated 13/11/2018 has been filed by the Sh. Amit D. Senani, Thane, Maharashtra (hereinafter referred to as the applicant) against the Commissioner (Appeals)'s Order No. 49/CUS/CCP-GST/2018 dated 30/08/2018 whereby an appeal filed by the department against the order of the Assistant Commissioner of Customs, Biju Patnaik International Airport, Bhubaneswar, has been allowed.

2. The brief facts of the instant case are that the applicant arrived from Singapore at the Bhubaneswar International Airport and reported at Red Channel and declared two pieces of Drones along with accessories. It was found by the customs staff that the applicant did not have any mandatory permission from DGCA and import licence from DGFT for the drones. Moreover these items did not qualify as bonafide baggage in terms of Section 79 of the Customs Act, 1962. The Assistant Commissioner, Customs adjudicated the case and ordered absolute confiscation of the drones while allowing the rest of the items i.e. accessories viz. two pieces of optical zoom lenses, six pieces of Intelligent Flight Batteries and two pieces of Osmo Bases etc. to be released on payment of duty after allowing free allowance under the Baggage Rules (ibid) to the applicant. The department appealed against this order-in-original to the Commissioner (Appeals) who vide the impugned order dated 30/08/2018, allowed the department's appeal and ordered that the benefit of free allowance was wrongly given to the applicant. He directed the department to issue necessary orders to protect the revenue.

3. A personal hearing was granted in this case on 16.08.2019 and 28.08.2019. But no one appeared for the applicant as well as respondent on the said dates. Instead, a letter dated 19.08.2019 was received on 23.08.2019 from Sh. O. M. Rohira, Advocate of the applicant that they do not desire any personal hearing and the matter may be decided on merits. However no one attended the hearing from the respondent's side and no request for any other date of hearing is also made by them. Hence, this case is being taken up for a decision on the basis of facts on record.

4. The revision application has been filed mainly on the ground that the Commissioner (Appeals) has erred in allowing the appeal filed by the department. The original adjudicating authority had passed a legal order on merits allowing free allowance to the applicant on accessories. The penalty of Rs. 46,882/- imposed on him has been duly paid by him along with duty on the accessories and the order-in-original did not require any interference.

5. The government has examined the matter. It is found that the Commissioner (Appeals) has rightly observed that the drones and their accessories imported by the applicant do not constitute a part of bonafide baggage in terms of Section 79 of Customs Act, 1962 read with para 2.26 of Foreign Trade Policy (FTP), 2015-20 which defines the bonafide baggage which can be brought by a passenger without any authorisation by the concerned authorities.

6. As per Para 2.26 of Foreign Trade Policy, 2015-20:

"Bona-fide house hold goods and personal effects may be imported as part of passenger baggage as per limits, terms and conditions thereof in Baggage rules notified by Ministry of Finance."

As per Rule 3 of Baggage Rules, 2016 under Section 79 of the Customs Act -

"An Indian resident or a foreigner residing in India or a tourist of Indian origin, not being an infant arriving from any country other than Nepal, Bhutan or Myanmar, shall be allowed clearance free of duty articles in his bonafide baggage, that is to say,-

(a) used personal effects and travel souvenirs; and

(b) articles other than those in Annexure-I, up to the value of fifty thousand rupees if these are carried on the person or in the accompanied baggage of the passenger"

In the light of the above provisions of law, the government holds that the benefit of free allowance of Rs.50,000/- under the Baggage Rules has been wrongly extended by the adjudicating authority to the applicant since drones and their accessories cannot be cleared as "baggage".

7. In terms of the above discussion, the revision application filed by the applicant is rejected and the order of the Commissioner (Appeals) is upheld. The department is directed to recover the differential duty from the applicant on the said accessories.


(MALLIKA ARYA)

ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA

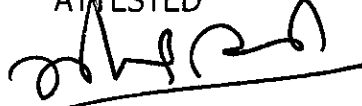
Sh. Amit Dayaram Senani,
Flat No. 502, Sai Dristi Apartment,
Kunla Camp, NR Shanty Prakash Hall,
Ulhasnagar, Thane, Maharashtra-421005

ORDER NO. 07/19-Cus dated 27-8-2019

Copy to:-

1. The Commissioner of Customs, Bhubaneswar.
2. The Commissioner of Customs (Appeals), Bhubaneswar
3. The Assistant Commissioner of Customs, Biju Patnaik International Airport, Bhubaneswar.
4. P.S. to A.S.
5. Guard File

ATTESTED



(ASHISH TIWARI)

Assistant Commissioner