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SPEED POST

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. 380/13/B/15-RA / 20/10

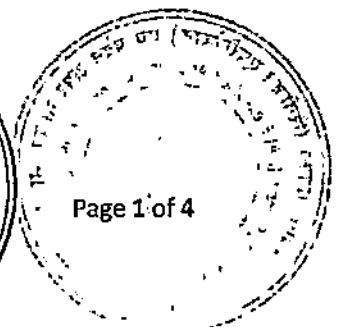
Date of Issue 22.11.2018

ORDER NO. 722/2018-CUS (SZ) / ASRA / MUMBAI/ DATED 10.09.2018 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 : Commissioner of C. Ex, Customs & Service Tax, Calicut.

Respondent : Shri Chemnad Hameed Abdul Rahman

Subject : Revision Application filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal No. 124/2014-Cus dated 12.12.2014 passed by the Commissioner of C. Ex, Customs & Service Tax (Appeals), Cochin.



ORDER

This revision application has been filed by Commissioner of C. Ex, Customs & Service Tax, Calicut, (herein referred to as Applicant) against the Order in Appeal No 124/2014-Cus dated 12.12.2014 passed by the Commissioner of C. Ex, Customs & Service Tax (Appeals), Cochin.

2. On 26.05.2013 the respondent arrived at the Calicut Airport. Examination of his baggage resulted in the recovery of three gold chains totally weighing 282 gms valued at Rs. 6,86,162/- ( Rupees Six lakhs Eighty six thousand One hundred and Sixty two ). The gold chains were recovered from his checked in baggage.

3. After due process of the law vide Order-In-Original No. 26/2013 dated 26.05.2013 the Original Adjudicating Authority ordered confiscation of the gold under Section 111 (d) (l) and (m) of the Customs Act, 1962, but allowed redemption of the same on payment of Rs. 3,00,000/- as redemption fine and imposed penalty of Rs. 2,00,000/- under Section 112 (a) of the Customs Act, 1962 on the Respondent.

4. Aggrieved by the said order, the respondent filed appeal before the Commissioner (Appeals) who vide Order-In-Appeal 124/2014-Cus dated 12.12.2014 observed that the redemption fine, penalty and customs duty was high and reduced the redemption fine to Rs. 2,00,000/- and also reduced the penalty to Rs. 1,00,000/- and allowed the appeal of the respondent.

5. Aggrieved with the above order the Applicants have filed this revision application interalia on the grounds that;

5.1 The passenger did not declare the possession of the gold chains its value and quantity in the customs embarkation slip; The passenger opted for the green channel for Customs clearance even when he was not entitled to import gold having stayed abroad only for 47 days; The gold was recovered only when the passenger was intercepted at the exit gate and his baggage was examined in detail; Without considering these facts Commissioner ( Appeals ) has reduced the Redemption fine and



penalty and therefore the reduction of the fine and penalty is not legal and proper.

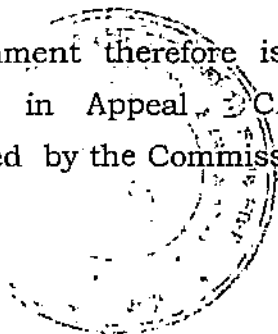
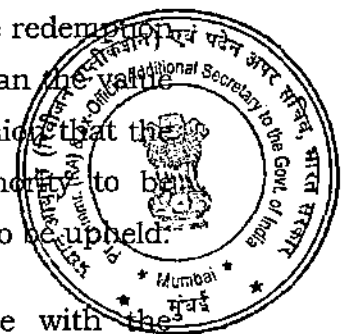
5.2 The Revision Applicants prayed that taking into consideration the above facts, whether the Appellate order was legally correct and proper and prayed for such an order as deemed fit.

6. In view of the above, the Respondent and his Advocate was called upon to show cause as to why the order in Appeal should be annulled or modified as deemed fit, and accordingly a personal hearing in the case was scheduled on 19.07.2018, 20.08.2018 and 10.09.2018. However, neither the Respondent nor his advocate attended the said hearing. The case is therefore being decided exparte on merits.

7. The Government has gone through the case records it is observed that the gold chains were not declared as required under section 77 of the Customs Act, 1962 by the Respondent. Therefore the confiscation of the gold is justified.

8. However Government notes that the gold was not indigenously concealed. Import of gold is restricted not prohibited and the ownership of the gold is not disputed. The Government therefore is inclined to agree with the Order-in-Appeal and the Original adjudicating Order in allowing the gold on redemption fine and penalty. Government observes that the redemption fine and penalties should be commensurate to the offence committed, the Commissioner (Appeals) has observed that the redemption fine and penalty is very high considering the value of the goods and has proportionately reduced the redemption fine and penalty. The Government also notes that the redemption fine and penalty and the customs duty involved is much more than the value of the goods. Under the circumstances Government is of the opinion that the redemption fine and penalties imposed by the Appellate authority to be appropriate and therefore the impugned Order in Appeal is liable to be upheld.

9. The Government therefore is not inclined to interfere with the impugned Order in Appeal. CAL-EXCUS-000-APP-157-14-15 dated 12.12.2014 passed by the Commissioner of C. Ex, Customs & Service Tax



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(Appeals), Cochin. The impugned Order in Appeal is upheld as legal and proper.

10. Revision application is dismissed.

11. So, ordered.

*(Handwritten Signature)*  
18/9/18

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

ORDER No. 722/2018-CUS (S Z) /ASRA/MUMBAI

DATED 18.09.2018

To,

1. The C. Ex, Customs & Service Tax, Calicut,  
C. R. Building,  
Mananchira,  
Calicut - 673 001.  
Kerala.
2. Shri Chemnad Hameed Abdul Rahman  
S/o Chemnad Korakode Hameed,  
Khazi Lane,  
Thalangara, Kasargod Dist.,  
Kerala.

Copy to:

3. The Commissioner of C. Ex, Customs & Service Tax (Appeals), Cochin.
4. Sr. P.S. to AS (RA), Mumbai.
5. Guard File.
6. Spare Copy.

**ATTESTED**

*(Handwritten Signature)*  
29/11/18  
**S.R. HIRULKAR**  
Assistant Commissioner (R.A.)

