



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

F.No. 371/26/B/14-RA

Date of Issue 24.09.2018

ORDER NO. 731/2018-CUS (WZ) / ASRA / MUMBAI/ DATED 24.09.2018 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 : Shri Banwari Shriram Patil

Respondent : Commissioner of Customs (Airport), Mumbai.

Subject : Revision Application filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal No. MUM-CUSTOM-PAX-APP-349/13-14 dated 09.12.2013 passed by the Commissioner of Customs (Appeals) Mumbai-III.

ORDER

This revision application has been filed by Shri Banwari Shriram Patil (herein after referred to as the "Applicant") against the order in Appeal No. MUM-CUSTOM-PAX-APP-349/13-14 dated 09.12.2013 passed by the Commissioner of Central Excise (Appeals) Mumbai.

2. Briefly stated facts of the case are that the applicant, an Indian National had arrived at the Chennai Airport on 15.06.2011. Examination of his baggage resulted in recovery of electronic items such as pendrives, laptops computers etc. totally valued at Rs. 9,04,875/- Rupees Nine Lakhs Four thousand Eight hundred and Seventy Five/)

3. The Original Adjudicating Authority, vide its Order in Original No. ADC/AS/ADJN/44/2012-13 , dated 17.12.2012, absolutely confiscated the items under Section 111 (d), (l), (o) and (m) of the Customs Act, 1962. And imposed a penalty of Rs. 3,00,000/- under Section 112 (a) of the Customs Act, 1962 on the Applicant. A penalty of Rs. 3,00,000/- under Section 114AA of the Customs Act, 1962 was also imposed on the Applicant

4. Aggrieved by this order the Applicant filed an appeal with the Commissioner (Appeals). the Commissioner of Customs (Appeals) Mumbai-III vide order MUM-CUSTOM-PAX-APP-349/13-14 dated 09.12.2013 passed by rejected the Appeal of the Applicant on the grounds of non compliance of the conditions under section 129E of the Customs Act, 1962.

5. Aggrieved with the above order the Applicant has filed this revision application interalia on the grounds that.

5.1 The value of the goods as taken by the department is on the higher side; The goods brought by the Applicant are neither restricted not prohibited; The goods have been abandoned by the Applicant; In spite of abandoning the goods heavy personal penalty has been imposed. The Applicants only prayer is reduction in personal penalty.

6. A personal hearing in the case was scheduled on 28.03.2018, 30.05.2018 and 29.08.2018. However, neither the Respondent nor his advocate attended the said hearings. The case is therefore being decided ex parte on merits.

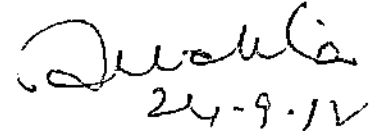
7. The Government has gone through the facts of the case. There is no doubt the items were in commercial quantities and under the circumstances confiscation of the goods is justified. However, the facts of the case state that the Applicant had not cleared the Green

Channel. The goods were recovered from his baggage and they were not indigenously concealed. The Applicant was not involved in any offences earlier and it was not a hardcore attempt to smuggle the goods into India. Government also notes that the Applicant has abandoned the goods and is not interested in its release. The Applicants only prayer is that the penalty imposed be reduced and the Government is inclined to accept the plea. The impugned Order in Appeal therefore needs to be modified. Government also holds that no penalty is imposable under section 114AA of the Customs Act,1962 as this provision is not attracted in baggage cases. The penalty under 114AA of the Customs Act,1962 therefore needs to be set aside.

8. In view of the above, Government observes that the facts of the case justify reduction in the penalty imposed. The penalty imposed on the Applicant is therefore reduced from Rs. 3,00,000/- (Rupees Three lakhs) to Rs. 2,50,000/- (Rupees Two Lakhs Fifty thousand) under section 112(a) of the Customs Act,1962. The penalty of Rs. 3,00,000/- (Rupees Three lakhs) imposed under section 114AA of the Customs Act,1962 in the Order-In-Original issued by the Original Adjudicating Authority has been incorrectly imposed, the same is therefore set aside.

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

10. So, ordered.


24-9-18

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

ORDER No. 731/2018-CUS (WZ) /ASRA/MUMBAI .

DATED 24-09.2018

To,

Shri Banwari Shriram Patil
Gujar Ali,
At Post Chopda,
Jalgaon - 425 107.

Copy to:

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