

REGISTERED
SPEED POST

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE)

8th Floor, World Trade Centre, Centre – I, Cuffe Parade,

Mumbai-400 005

F.No. 380/43/B/14-RA

7033

Date of Issue

27.11.2018

ORDER NO. ⁷⁵⁷/2018-CUS (SZ) / ASRA / MUMBAI/ DATED 28.09.2018 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 Customs (Airport), Chennai

Respondent : Shri Dheeban Govindaswamy

Subject : Revision Application filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal No. 1587/2013 dated 19.11.2013 passed by the Commissioner of Customs (Appeals), Chennai.



ORDER

This revision application has been filed by Commissioner of Customs, Chennai, (herein referred to as Applicant) against the Order in Appeal No. 1587/2013 dated 19.11.2013 passed by the Commissioner of Customs (Appeals), Chennai.

2. Briefly stated the facts of the case is that the Respondent, arrived at the Chennai Airport on 03.02.2013. Examination of his baggage and person resulted in the recovery of a Sony Bravia EX 65 40" TV valued at Rs. 35,000/- (Rupees Thirty Five thousand). The Respondent had admitted that he had brought the TV for some one else.

3. After due process of the law vide Order-In-Original No. 139 Batch A dated 03.02.2013 the Original Adjudicating Authority ordered absolute confiscation of the TV under Section 111 (d) (l) and (m) of the Customs Act, 1962, and imposed penalty of Rs. 15,000/- under Section 112 (a) of the Customs Act, 1962.

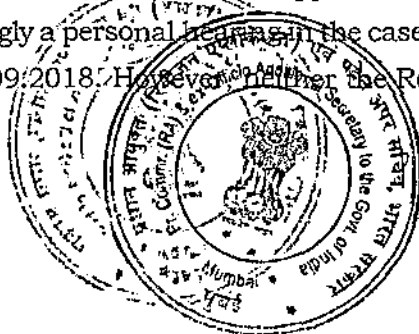
4. Aggrieved by the said order, the respondent and the Applicant filed an appeal before the Commissioner (Appeals) who vide Order-In-Appeal 1587/2013 dated 19.11.2013 set aside the confiscation and allowed clearance of the TV on payment of duty and eligible free allowance.

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

5.1 The order of the Commissioner (Appeals) in granting release of the TV is not correct as the respondent had admitted that he has brought the TV for handing over to another person; Section 111(d) has also been invoked while ordering absolute confiscation; Granting free allowance by the Commissioner(Appeals) has effectively rendered the offending goods free to operators and condoned such activity; It is apprehended that the impugned order in Appeal if implemented would jeopardize the interest of the revenue and as the Respondent is a foreign citizen the likelihood of securing the revenue interest as per the order in original would be grim.

5.2 The Revision Applicant cited decisions in favor of their case and prayed for setting aside the order of the Appellate authority and the order in original be upheld or 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 held on 16.07.2018, 20.08.2018 and 10.09.2018. However neither the Respondent nor his advocate replied to the Show



Cause Notice or attended the said hearing. The case is therefore being decided exparte on merits

7. Government has gone through the facts of the case. The only reason for ordering confiscation is because the TV has been brought for another person. However, the Appellate order states that respondent in his appeal has pleaded that he had made an oral and true declaration of the Sony Bravia brought by him and had opted for the red channel and has a stay of 184 days in Malaysia. The goods are neither prohibited or notified. Confiscation can be ordered if the goods are prohibited and liable for confiscation. The goods are also not in commercial quantity. The Government agrees with the Appellate order that the Sony TV brought by the respondent is eligible for free allowance and not liable for confiscation. The Government therefore finds no reason to interfere with the impugned Order in Appeal. The Revision Application is therefore liable to be dismissed.

8. Revision application is accordingly dismissed.

9. So, ordered.

Ashok Kumar Mehta
28.9.18

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

ORDER No. ⁷⁵⁷/2018-CUS (SZ) /ASRA/MUMBAI DATED 28.09.2018

To,

1. The Principal Commissioner of Customs (Airport),
New Custom House,
Menambakkam Road,
Chennai-27.

Shri Dheeban Govindaswamy
21-C-1, Srihari Apartments,
Gangayaman Kovil Street,
Vadalonni.

Copy to:

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

