

373/78/B/13-RA
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. 373/78/B/13-RA/1225

Date of Issue 28.02.2018

ORDER NO. 77/2018-CUS (SZ) / ASRA / MUMBAI/ DATED 27.02.2018 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. Sahul Hamid.

Respondent : Commissioner of Customs(Airport), Trichy.

Subject : Revision Application filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal No. 55/2013 dated 30.04.2013 passed by the Commissioner of Customs & Central Excise (Appeals) Trichy.



ORDER

This revision application has been filed by Shri. Sahul Hamid against the order no C.Cus No. 55/2013 dated 30.04.2013 passed by the Commissioner of Customs (Appeals), Trichy.

2. Briefly stated facts of the case are that the applicant, an Indian National had arrived at the Chennai Airport on 08.02.2013. The Applicant was intercepted in the Arrival hall as he was attempting to pass through the Green Channel. On enquiry he informed the officers the goods brought by him, and also produced the declaration slip declaring the value of the goods, the detail of the brought by the Applicant are detailed below;

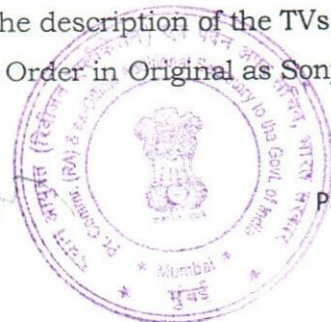
Sl. No.	Description of Goods	Quantity	Amount (in Rs.)
1	Pioneer Advanced APP Mix Trax	1	20,000/-
2	Sony 55" TV HX 75	2	1,70,000/-
		Total	1,90,000/-

The Original Adjudicating Authority, vide his order 44/2013 dated 21.02.2013 confiscated the all the above mentioned items under Section 111 (d), (l), and (m) of the Customs Act, 1962 and allowed redemption of the goods on payment of Redemption fine of Rs. 45,000/- . After free allowance of Rs. 20,000/-, Customs duty of Rs. 61,285/- was demanded. Penalty of Rs. 5,000/- was also imposed under Section 112 (a) of the Customs Act, 1962 on the Applicant. Aggrieved by this order the Applicant filed an appeal with the Commissioner of Customs (Appeals) Chennai. The Commissioner of Customs (Appeals) Chennai, vide his order No. 55/2013 dated 30.04.2013 patially allowed the Appeal of the Applicant, by directing the Original Adjudicating Authority to give the eligible full free allowance and recalculate appropriate duty and impose fine and penalty as applicable.

3. Aggrieved with the above order the Applicant has filed this revision application inter alia on the grounds that.

3.1 The order of the appellate authority is contrary to the law.

3.2 The Order in Appeal states that the copies of the baggage receipts showed the value of TVs of different models and not the same model imported by the Applicant. This is factually incorrect, and contrary to the facts. The description of the TVs brought by the Applicant is recorded by the department in the Order in Original as Sony 55" TV Hx 75.



3.3 The baggage receipt no. 6138 and 6139 both dated 07.02.2013, enclosed with this Revision Application, indicate the TVs having the same model number, brought by other passengers have been valued at Rs. 75,000/-, and the another similar TV brought by another passenger, baggage receipt No. 14573dt. 01.01.2013 (Trichy Airport) has been valued at Rs. 65,000/-. Therefore the TVs have to be valued at Rs. 65,000/-.

3.3 The Applicant concludes that as the Commissioner (Appeals) has directed that full free allowance of Rs. 35,000/- has to be extended to the impugned goods. The Rs. 15000/- (after extending Rs. 20,000/- on the Pioneer Mix Trax) has to be extended to the One of the TV. Therefore, having arrived at the conclusion that the impugned goods are bonafide baggage, ordering the goods to be redeemed on payment of fine and penalty is against the law and the goods have to released unconditionally on payment of duty.

The Revision Applicant prays that as the Commissioner (Appeals) has held the impugned goods to be bonafide baggage Hon'ble Revision Authority may please order favourable reliefs and render justice.

4. A personal hearing in the case was held on 04.12.2017, the Advocate for the respondent Shri Palanikumar requested for an adjournment due to a medical emergency. The personal hearing was rescheduled on 29.01.2018, which was attended by the Shri Palanikumar. The Advocate, re-iterated the submissions filed Revision Application. Nobody from the department attended the personal hearing.

5. The Government has carefully gone through the facts of the case. The Impugned Order in Original clearly states that the impugned goods were declared by the Applicant, therefore there was no question of concealment. The Applicant had not crossed the Green Channel exit and was intercepted earlier. One Pioneer Advanced APP Mix Trax and Two TVs were brought by the Applicant. The TVs of the same model Number have been brought by other passengers in the beginning of the year, at the same Airport and the same have been valued at Rs. 75,000/- each. The Commissioner of Customs (Appeals) Chennai, in his order, has observed that, the free baggage allowance has to be extended to all the impugned goods. Therefore the remaining amount has to be extended to one of the TVs. As such Government observes that the impugned goods are to be held as bonafide goods. Secondly, Government also observes that as these same TVs, ie Sony 55" TV Hx 75 have been earlier valued at

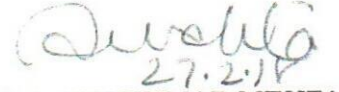
373/78/B/13-RA

reduced rates at the same Airport the benefit of the same has to be extended to the Applicant. Hence the order of confiscation of the goods in the Order in Appeal is required to be set aside, and the case is liable to be remanded back to the Original Adjudicating Authority for reassessment of impugned goods.

6. Taking into consideration the foregoing discussion, Government, sets aside the impugned Order in Appeal. Government directs the Original Adjudicating Authority to reassess the value of the impugned TVs at appropriate rates allowing full duty free allowance and recalculate appropriate duty on the impugned goods. The matter is remanded for denovo proceedings on the terms mentioned supra. The Original Adjudicating Authority shall pass the speaking orders after following the principles of natural justice within 8 weeks from the receipt of this order.

7. The Revision Applications listed above are thus disposed of in terms of above.

8. So, ordered.


27.2.18

(ASHOK KUMAR MEHTA)

Principal Commissioner & ex-officio
Additional Secretary to Government of India

ORDER No. 77/2018-CUS (SZ)/ASRA/MUMBAI

DATED 27-02-2018

To,

Shri Sahul Hamid.
C/o S. Palanikumar, Advocate,
No. 10, Sunkurama Chetty Street,
Opp High court, 2nd Floor,
Chennai 600 001.

True Copy Attested


28-2-18

एस. आर. हिरुलकर
S. R. HIRULKAR
(AC)

Copy to:

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

