

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. 380/63/B/14-RA

Date of Issue 28/11/2018

ORDER NO. ⁷⁷⁵ /2018-CUS (S Z) / 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) Tiruchirapalli.

Respondent : Shri V. Pandi

Subject : Revision Application filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal C. Cus No. 09/2014 dated 12.03.2014 passed by the Commissioner of Customs (Appeals), Tiruchirapalli.



7. The Government has gone through the case records it is observed that the gold bars were recovered from the baggage of the respondents and it was not declared by the Respondent and therefore the confiscation of the gold is justified. However the gold was not indigenously concealed. Import of gold is restricted not prohibited and the ownership of the gold is not disputed. There are a catena of judgments which align with the view that the discretionary powers vested with the lower authorities under section 125(1) of the Customs Act, 1962 have to be exercised. The section 125 of the Customs Act, 1962 does not differentiate between an owner and a carrier. The Government therefore is inclined to agree with the Order-in-Appeal upholding the Order in original in allowing the gold on redemption fine and penalty. Government also notes that the redemption fine and penalties is commensurate to the offence committed. Under the circumstances Government is of the opinion that the impugned Order in Appeal is liable to be upheld.

8. The impugned Orders in Appeal No. 09/2014 dated 12.03.2014 passed by the Commissioner of Customs (Appeals), Tiruchirapalli are therefore upheld as proper and legal.

9. Revision application is dismissed.

10. So, ordered.

(Signature)
28/9/18

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

ORDER No. 775/2018-CUS (S Z) /ASRA/MUMBAI

DATED 28-09-2018

To,

1. The Commissioner of Customs, (Airport)
Williams Road,
Tiruchirapally.
2. Shri V. Pandi
No. 219/1, Bharathi Nagar,
Singampoonari,
Thirupattur Tk.
Sivagangai Dist.

Copy to:

3. The Commissioner of Customs (Appeals), Tiruchirapally.
4. Sr. P.S. to AS (RA), Mumbai.
5. Guard File.
6. Spare Copy.

ATTESTED

(Signature)
28/9/18
S.R. HIRULKAR
Assistant Commissioner (R.A.)



ORDER

This revision application has been filed by Commissioner of Customs (Airport) Tiruchirapalli, (herein referred to as Applicant) against the Order in Appeal C. Cus No. 09/2014 dated 12.03.2014 passed by the Commissioner of Customs (Appeals), Tiruchirapalli.

2. On 12.03.2014 the respondent arrived at the Tiruchirapalli Airport. Examination of his baggage resulted in the recovery of a gold chain weighing 80.43 gms valued at Rs. 2,22,067/- (Rupees Two lakhs Twenty two thousand and Sixty seven). The gold chain was recovered from the baggage carried by the Respondent.

3. After due process of the law vide Order-In-Original No. 141/2013 dated 06.07.2013 the Original Adjudicating Authority ordered confiscation of the goods under Section 111 (d) (l) and (m) of the Customs Act, 1962, but allowed redemption of the gold on payment of Rs. 56,000/- and Customs duty of Rs. 80,054/- and imposed penalty of Rs. 34,000/- under Section 112 (a) of the Customs Act, 1962 on the Respondent.

4. Aggrieved by the said order, the applicants filed appeal before the Commissioner (Appeals) who vide Order-In-Appeal C. Cus No. 09/2014 dated 12.03.2014 rejected the appeal.

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

5.1 The Order of the original adjudicating authority and the order of the Commissioner (Appeals) are both neither legal nor proper as the passenger was not an eligible passenger as he had stayed abroad for less than six months; The gold therefore cannot be considered as bonafied baggage; Restriction on import or export is to an extent in the nature of prohibition; The gold was not declared as mandated under section 77 of the Customs Act, 1962 so as to evade the payment of duty;

5.2 The Revision Applicants cited case laws in support of their case and prayed that the order of the Appellate authority be set aside and the order of the Lower adjudication authority be upheld 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 held on 16.07.2018, 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

