

ORDER

This revision application has been filed by Commissioner of Customs (Airport) Chennai, (herein referred to as Applicant) against the Order in Appeal No. 1788/2013 dated 05.12.2013 passed by the Commissioner of Customs (Appeals) Chennai.

2. The respondent arrived at the Chennai International Airport on 14.05.2013 and was intercepted at the green channel. Examination of his baggage resulted in the recovery of one Panasonic AVC CAM video Camera valued at Rs. 2,00,000/- (Rupees Two lakhs). The respondent stated that he was carrying the Camcorder for somebody else.

3. After due process of the law vide Order-In-Original No. 584/Batch B dated 14.05.2013 the Original Adjudicating Authority ordered absolute confiscation of the goods under Section 111 (d) (l) and (m) of the Customs Act, 1962, but allowed redemption of the same on payment of Customs duty and imposed penalty of Rs. 20,000/- 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 C. Cus No. 1801/2013 dated 05.12.2013 observed that the goods are not in commercial quantity or prohibited and allowed the goods on Redemption fine of Rs. 35,000/- and reduced the penalty to Rs. 5,000/- and payment of appropriate duty.

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

5.1 The observation of the Order of the Commissioner (Appeals) that the Lower adjudicating Authority has not given any reasons for absolute confiscation is not correct, as the Lower adjudicating Authority has stated that the passenger has brought the said goods as a carrier; There are several cases wherein such cases have been



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awarded absolute confiscation; It is apprehended that the impugned Order in Appeal if implemented would jeopardize the revenue interests irreparably and the likelihood of securing the revenue interests as per the original order would be grim.

5.2 The Applicants cited orders in support of their case and prayed that the absolute confiscation be of the goods 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 merits.

7. The Government has gone through the case records it is observed that the Respondent did not properly declare the impugned goods and therefore the confiscation of the goods is justified.

8. However the only reason for absolute confiscation of the goods is that the goods were brought for some other person and therefore were not considered as bonafide baggage. The goods are not in commercial quantity and the Appellate order avers that the same was visible and therefore the question of declaration does not arise. The Applicant has no previous offence registered against him. The absolute confiscation of the goods, therefore appears to be harsh and not justified. The Government therefore agrees with the contentions and the conclusion drawn by the Appellate authority. The

Commissioner (Appeals) is right allowing the goods on payment of redemption fine and penalty. The Order in Appeal also states that the value of the value of the Video Camera is enhanced and the Respondent is eligible for free allowance, having stayed abroad for 19 days. In view of the above the Government therefore agrees with the quantum of the redemption fine and penalty imposed in Order in Appeal. The impugned Order in Appeal therefore is liable to be upheld and the Revision application is liable to be dismissed .



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8. The impugned Order in Appeal C. Cus No. 1788/2013 dated 05.12.2013 passed by the Commissioner of Customs (Appeals), Chennai is upheld as proper and legal.

9. Revision application is dismissed.

10. So, ordered.

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

ORDER No. ⁷⁸²/2018-CUS (SZ) /ASRA/MUMBAI DATED 28.09.2018

To,

1. The Principal Commissioner of Customs (Airport),
Chennai International Airport,
Terminal -2, Mumbai.
2. Shri Sulthan Abdulsamathu
C/o S. Palanikumar, Advocate,
No. 10, Sunkurama Chetty Street,
Opp High Court, 2nd Floor,
Chennai 600 001.

Copy to:

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

ATTESTED


S.R. HIRULKAR
Assistant Commissioner (R.A.)

