



GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(DEPARTMENT OF REVENUE)

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Mumbai-400 005

F.No. 371/360/B/WZ/2022-RA

7798

Date of Issue : 02.11.23

ORDER NO. 798 /2023-CUS (WZ) /ASRA/MUMBAI DATED 30.10.2023 OF  
THE GOVERNMENT OF INDIA PASSED BY SHRI SHRAWAN KUMAR, PRINCIPAL  
COMMISSIONER & EX-OFFICIO ADDITIONAL SECRETARY TO THE  
GOVERNMENT OF INDIA, UNDER SECTION 129DD OF THE CUSTOMS ACT, 1962.

Applicant : Shri. Kollantavida Puthiya Purayil Savad

Respondent : Commissioner of Customs, Pune - 411 001.

Subject : Revision Application filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal No. PUN-CT-APPII-(VNT)-000-058-2021-22 dated 28.10.2021 issued on 28.10.2021 from F.No.GAPPL/COM/CUSP/328/2021 passed by the Commissioner of Customs (Appeals - II), Central Tax, Pune, against common Order-in-Original No. PUNE-CUSTOMS-000-JC-04/2020-21 date 24.07.2020 passed by Jt. Commissioner (Customs), Pune.

ORDER

This revision application has been filed by Shri. Kollantavida Puthiya Purayil Savad (herein referred to as the Applicant) against the Order-in-Appeal No. PUN-CT-APPII-(VNT)-000-058- 2021-22 dated 28.10.2021 issued on 28.10.2021 from F.No.GAPPL/COM/CUSP/328/2021 passed by Commissioner of Customs (Appeals – II), Central Tax, Pune.

2(a). Brief facts of the case are that on 16.08.2018, the DRI Officers, Pune Regional Unit (PRU) in co-ordination with Customs Officers, Pune, acting on specific intelligence while rummaging in the Immigration Hall and public utility areas at the Pune International Airport (PIA), immediately after the immigration clearance of passengers who had arrived from Dubai on SpiceJet Flight No. SG52, had recovered 10.175 kgs of gold consisting of FM gold biscuits, cut biscuits, gold bands, etc of 999.0 purity, valued at Rs. 3,09,34,675/- (MV), from the gents lavatory. The said gold biscuits and articles of gold which had been concealed in packets were found in the dustbin, placed near a commode in the gents lavatory at Immigration Hall, PIA.

2(b). While profiling of the passengers who had arrived by SpiceJet Flight SG-52 and examination of the CCTV footage of 16.08.2018, the investigators suspected the applicant and another passenger (PAX) named Shri. Rakesh Rameshlal Tharwani (referred as PAX), as it was observed that they were the last persons to have cleared from the Immigration Hall and also, it was observed that they had spent considerable time in the gents toilet from where the said gold had been recovered.

2(c). Since, the said PAX is not the subject matter of this revision application, the details of the investigations carried out against him are not being discussed here and the same have been dealt with separately in another Revision Order pertaining to the revision applications filed by him and others.



2(d). Moreover, it would be pertinent to mention here that a perusal of the case records does not indicate that the said applicant and the pax had acted in tandem. It is observed that the investigations carried with regard to the applicant and the PAX flows in different streams. Hence, they are being dealt with, separately. Suffice to say, that the lead gathered from the CDRs of the mobile phones used by one Sanjay Aswani whose name figured in the other investigations, led to two persons viz Rajendra Bane, Customs Hawaldar and Shri. Krushikesh Jadhav. The roles played by these two persons inasmuch as this stream of investigation is concerned is discussed here for a better understanding of the case and sequence of events.

2(e). The said profiling of the applicant also revealed that he had left India from Mumbai Airport on 15.08.2018 for Dubai and on same day i.e. 15.08.2018, he had boarded the SpiceJet flight no. SG-52 at Dubai to Pune. In immediate follow up action, the applicant was apprehended near the SpiceJet Office situated in the PIA complex. The applicant did not give a satisfactory reply to the query put to him regarding the reason for his short visit to Dubai and was evading questions on the mode of finance of his frequent international visits. During the examination of the applicant, he complained of stomach pain and revealed that he had concealed two cut pieces of gold in his body cavity i.e. rectum. A bill dated 15.08.2018 issued by a Duabi based jeweller was recovered from the applicant. The applicant ejected out two cut pieces of gold, totally weighing 116.64 grams of 999 purity valued at Rs. 3,54,584/-.

2(f). In his statement recorded on 16.08.2018 under Section 108 of the Customs Act, 1962, applicant revealed that he resided at Kannur, that since last 1 ½ years he had been visiting Dubai once every fortnight for short visits; that he brought gold, cigarettes, phones, laptops etc from Dubai and cleared it without declaring to Customs; that he had visited Dubai on 15.08.2018 and carried Rs. 2 lakhs to bring gold on return trip; that he was in the toilet at PIA for a longer time as he was concealing the two cut pieces of gold in his body cavity; that he had cleared the PIA without declaring this gold to Customs; that he was aware of recovery of nearly

10.175 kgs of gold by DRI from the dustbin of the toilet located in the immigration hall; that he was not aware as to who had smuggled this gold (10.175 kgs) at PIA;

2(g). Investigations carried out pertaining to the second stream culled out from the profiling of passengers carried out by the Investigating officers led to the details of a person named Sanjay Aswani. CDRs of the phone nos used by him, provided leads on two persons viz, Shri. Ramesh Bane, Customs Hawaldar and Shri. Krushikesh Jadhav.

2(h). Statement of Shri. Krushikesh Jadhav was recorded under Section 108 of the Customs Act, 1962; wherein he stated that though the mobile no. 8888599183 had been issued in his name, the same was being used by Shri. Rajesh Bane who was a Customs Hawaldar at PIA; that he (i.e. himself) was co-ordinating the smuggling of gold at PIA taking assistance of Shri. Rajesh Bane and Shri. Junaid for a person named Shri. Arif who was based at Dubai; that on the advise of Shri. Rajesh Bane, they had planned to smuggle gold bars into India via PIA in the morning of 16.08.2018 with the help of two passengers whose details had been forwarded to him; that in turn, he had forwarded the details of the two passengers to Shri. Rajesh Bane; that on being shown a photograph of a person / passenger, he (i.e. Jadhav) had identified it as that of the applicant; that at around 03.30 am of 16.08.2018, he had received a call from Shri. Rajesh Bane informing him of some problem in clearing gold at PIA and was instructed that the passengers should drop the gold in the toilet at the immigration hall; that accordingly, he had immediately passed on this information to Junaid.

2(i). Statement of Shri. Rajesh Bane, Customs Hawaldar at PIA was recorded on 22.11.2018 under Section 108 of the Customs Act, 1962, wherein he stated that he was frequently using mobile phone nos. 7887800711, 8668618600 and 888752949 which were all issued in the name of his son; that on 15.08.2018 and 16.08.2018, he was at his village named Talekante, Ratnagiri;



2(j). Statements of Shri. Mohd. Junaid were recorded by DRI, Kannur and DRI, PRU on 16.01.2019 and 23.01.2019 wherein he had admitted that he was working for Mr. Tashrif who hails from Thalangar, Kasargod and who operated from Dubai; that he was assisted by Shri. Krushikesh Jadhav and one Customs Officer of Pune Customs whom he addressed as Bhau; that he identified his photograph; that the two passengers who were to bring gold were the applicant and Mr. Saleem; that he identified their photographs including that of the applicnat; that he had checked with Thasrif in Dubai whether he was interested in sending gold; that on his confirmation he had taken the help of Shri. Krushikesh Jadhav; that till 16.08.2018, he had been able to clear nearly 20 passengers sent by Thasrif from Dubai; that Thasrif would send details of the passengers such as copy of passport, photographs of passengers; arrival details at PIA; on 16.08.2018, that Thasrif had 10 pieces of gold with each passenger instead of the regular 5 pieces; that he had identified the photographs of the applicant, Saleem and Customs Hawaldar; that on 16.08.2018, he had received a call from Krushikesh Jadhav about an alert at PIA and to dump the gold in the toilet at Immigration hall; that accordingly, he had called Saleem ; that he would pass the photographs of the passengers bringing gold to Krushikesh Jadhav and had done so of the applicant and Saleem also; that he would receive money of about Rs. 55,000/- for 5 pieces of gold and after retaining Rs. 5000/- for himself he would pass on the rest to Krushikesh Jadhav who would hand over to others also.

2(k). In his further statement recorded on 24.09.2018 at Yerwada Prison, the applicant stated that he was not aware of Javed and Junaid; that he had made calls to Junaid on 16.08.2018 to get rickshaw to Pune Station; that the sling bag containing a laptop and two old i-phones brought by him on 16.08.2018 from Dubai were taken away by another person while he was searching for his lost wallet; that this person was a passenger on the same flight who had befriended him; that the gold recovered from his rectum on 16.08.2018 was purchased by him for 16680 dirhams, arranged from his own savings; that he had come out of the queue of

passengers of SG52 at immigration on 16.08.2018 to attend to a call from his room partner, Mr. Tasli from Dubai who had called to know his whereabouts.

2(l). In his further statement recorded on 01.02.2019 after his release on bail, the applicant stated that he did not recognise the other carrier named Saleem to whom he had been talking while in the queue at Immigration; that he did not agree to the details in the statement of Junaid and Krushikesh and denied the same;

2(m). Investigations carried out of the flight manifest of SpiceJet Flight No. SG-52/15.05.2018 arriving at Pune on 16.08.2018 revealed that a passenger named Mohd. Abdul Saleem Sathyadka was seated at seat no. 7B and had travelled in said flight. Summons dated 24.01.2019 and 01.02.2019 were issued to him. However, he had failed to attend.

2(n). The gold weighing 10.175 kgs recovered from the toilet of Immigration Hall at PIA on 16.08.2018 was taken up for pre-trial disposal under Section 110 (IA) of the Customs Act, 1962. Notice of the same was issued to the applicant and displayed on the notice board. The applicant and the other PAX mentioned at para 2(b) above, gave their no objection to the disposal of the seized gold vide letters dated 01.02.2019 and 18.01.2019, resp. Accordingly, disposal order to Customs, Pune was issued on 01.02.2019 by DRI, PRU.

2(o). The analysis of the CDRs and in some cases the SDRs of mobile nos of the applicant, Saleem, Krushikesh Jadhav, Rajesh Bane, Junaid, Javed etc were carried out by the investigating agency. The CDRs of

(i). the applicant revealed that on arrival at PIA on 16.08.2018, he was in constant touch with Junaid and with a Dubai based number.;

(ii). of Saleem revealed that on arrival at PIA on 16.08.2018, he was in constant touch with Junaid.;

(iii). of Junaid revealed that on 16.08.2018, he was in constant touch with Shri. Krushikesh Jadhav, the applicant, Saleem and Dubai based number referred as Thasrif-1 and Thasrif-2.;



(iv). of Krushikesh Jadhav revealed that on 16.08.2018 he was in constant touch with Rajendra Bane, Customs Hawaldar and the Dubai based number.;

(v). of Shri. Rajesh Bane, Customs Hawaldar, revealed that he was in touch with Krushikesh Jadhav and an unidentified number.

2(p). From the details of the CDRs of the various persons involved in the case, it was alleged that on 14.08.2018, Rajendra Bane, Customs Havaladar had conveyed to Krushikesh Jadhav, the date for smuggling of gold, that he in turn contacted Junaid who informed Tashrif at Dubai. Accordingly, they decided to smuggle the gold on 16.08.2018 at PIA and the photographs of the two passengers were sent by Tashrif to Junaid who had then forwarded it to Krushikesh Jadhav who inturn also sent it to Rajesh Bane. Tashrif had sent double the quantity of gold on 16.08.2018 than the regular 5 kgs. From the CDRs, it was also alleged that Shri. Tasli from Dubai with whom the applicant had spoken on the mobile while in the queue at the Immigration of PIA was in fact Shri. Tashrif as the mobile nos had matched with those of Junaid and Krushikesh Jadhav. Also, it was alleged that the name Arif disclosed by Krushikesh Jadhav was in fact Tashrif.

2(q). It was also alleged that at about 03.35 am on 16.08.2018 before the SpiceJet Flight No. SG-52 had even landed at PIA, someone had alerted Rajesh Bane, Customs Havaladar about a vigil on the passengers arriving on that flight; that in turn, Rajesh Bane had immediately alerted Krushikesh Jadhav and they decided to put the gold in the dustbin at Immigration Hall of PIA, as advised by Rajesh Bane. This was conveyed to the Saleem by Junaid.

3. After due process of investigations and the law, the Original Adjudicating Authority i.e. the Joint Commissioner of Customs, Pune, vide a common Order-In-Original No. PUNE-CUSTOMS-000-JC-04/2020-21 date 24.07.2020, among other things recovered in the case and other persons involved in the case, in respect of the applicant i.e. Shri. Kollantavida Puthiya Purayil Savad had ordered the following;

- (a). absolute confiscation of the gold biscuits and articles of gold, totally weighing 10.1758 kgs and valued at Rs. 3,09,34,675/- under section 111(d), (j) and (l) of the Customs Act, 1962.;
- (b). absolute confiscation of the two cut pieces of gold biscuit totally weighing 116.64 grams, valued at Rs. 3,54,584/- under section 111(d), (j) and (l) of the Customs Act, 1962, recovered on 16.08.2018 from the body cavity of the applicant
- (d). on two counts, personal penalty of Rs. 10,00,000/- and Rs. 10,000/- were imposed on the applicant, both under the provisions of Section 112(a) and 112(b) of the Customs Act, 1962, in connection with smuggling of 10.175 kgs of gold collectively valued at Rs. 3,09,34,675/- and two cut pieces of gold biscuit totally weighing 116.64 grams, valued at Rs. 3,54,584/-;
- (e). on two counts, personal penalty of Rs. 10,00,000/- and Rs. 10,000/- were imposed on the applicant under the provisions of Section 114AA of the Customs Act, 1962, in connection with smuggling of 10.175 kgs of gold collectively valued at Rs. 3,09,34,675/- and two cut pieces of gold biscuit totally weighing 116.64 grams, valued at Rs. 3,54,584/-;
- (f). etc. {the same is not being reproduced here, as it is not the subject matter of this revision application.}

4(a). Aggrieved by this Order, the applicants preferred an appeal before the appellate authority (AA) i.e. Commissioner of Customs (Appeals – II), Central Tax, Pune, who vide the Order-in-Appeal No. PUN-CT-APPII-(VNT)-000-058-2021-22 dated 28.10.2021 issued on 28.10.2021 from F.No.GAPPL/COM/CUSP/328/2021, dismissed the appeal no. 68/2020-21 filed by the applicant for non-compliance of provisions of Section 129E of the Customs Act, 1962.

4(b). The applicant in his appeal filed before the AA had requested to allow him to make a pre-deposit of 7.5% only on Rs. 20,000/- which was the penalty imposed on him under Section 112(a), 112(b) and 114AA of the Customs Act, 1962 in respect of the seizure of the two cut pieces of gold biscuits weighing 116.64 grams, valued at Rs. 3,54,584/-, as the gold weighing 10.175 kgs seized on 16.08.2018 did not belong to him. Penalty on 10.175 Kgs of gold recovered from the PIA was Rs. 10,00,000/- each under Section 112(a) and (b) and Section 114AA of the Customs Act, 1962. The AA in his OIA had observed that in effect the applicant was requesting to allow him to make a pre-deposit of Rs. 1,500/- instead of Rs. 1,51,500/-. The AA noted that it was evident that Section 129E of the Act, did not empower him to allow such



relaxation and after following due procedure, had dismissed the appeal filed by the applicant on grounds of non-compliance.

5(a). Aggrieved by this Order, the applicant has filed this revision application on the undermentioned grounds of revision;

- (i). the orders passed by the lower adjudicating authority was not a speaking order and OIA passed by AA was not justified who had dismissed the same for non-payment of pre-deposit on penalty on gold which had not been seized from him;
- (ii). that the gold seized from the applicant was only 116.64 grams and that gold weighing 10.1758 kgs, valued at Rs. 3,09,34,675/- had not been seized from his possession; that penalty on 116.64 grams was Rs. 20,000/- and pre-deposit would amount to Rs. 1500/-; that instead, he had been asked to pay pre-deposit on Rs. 20,20,000/- which would amount to Rs. 1,51,500/-.
- (iii). that he had also requested to waive of the pre-deposit since the entire gold had not been recovered from him;
- (iv). that he was a bonafide passenger having valid visa and valid residence of UAE and was entitled to bring gold within the permissible limit by paying duty;
- (v). that the applicant had no connection with the 10.175 grams of gold seized on 16.08.2018 and had not claimed ownership of the same;
- (vi). that using toilet at PIA for a long time would in no way establish that the offence had been committed by him; that it had been recorded during the investigations that he had not claimed the gold; that direct evidence against him carrying the gold was not available;
- (vii). that he relied on the case law of S. Anwarullah vs. Collector of Customs, Madras, 1987-27-ELT-734-Tribunal wherein it was held that suspicion howsoever grave it might be, cannot take the place of proof; that the applicant did not fall in any of the categories mentioned in Section 112(b) of the Customs Act, 1962.; that a huge penalty had been imposed on him and he was not concerned with the seizure of 10.1758 kgs of the gold recovered from the dustbin; that penalty under Section 114AA of the Custom Act, 1962 was applicable, if any person mis-declared, signs, issues any statement in the transaction of any business which was not the case in the matter pertaining to him and hence, penalty under Section 114AA of the Customs Act, 1962 was not imposable on him;

- (viii). that the gold in question brought by him i.e. 116.64 grams was not prohibited; that he relies on case law of Yakub Ibrahim Yusuf vs. Commr. of Customs, Mumbai.
- (ix). that the various Courts in the country had held that import of commodities if it is not completely banned could be released on redemption fine;
- (a). Yakub Ibrahim Yusuf vs CC, Mumbai 2011 (263) ELT 685
- (b). CC (Airport), Mumbai vs Alfred Menezes 2009 (242) ELT 334 (Bom)
- (c). VP Hameed vs Collector of Customs, Mumbai 1994 (73) ELT 425 (Tri)
- (d). T. Elavarasan vs Commissioner of Customs (Airport), Chennai 2011 (266) ELT 167 (Mad)
- (e). Kadar Mydin vs Commissioner of Customs (Preventive), West Bengal 2011 (136) ELT 758
- (f). Sapna Sanjeeva Kohli vs Commissioner of Customs Airport, Mumbai 2008 (23) ELT 305
- (g). Vattakkal Moosa vs Collector of Customs, Cochin 1994 (72) ELT (GOI)
- (h). Hargovind Das K. Joshi vs. Collector of Customs, 1992(61) ELT 172(SC).
- (i). etc
- (x). that penalty under Section 114AA was not imposable in the present case. He has relied on Revisionary Authority Order no. 343/2018 CUS(SZ) dated 28.05.2018.
- (xi). that the Order passed by OAA deserved to be rejected;
- (xii). that the order imposing a penalty of Rs. 10,00,000/- under Section 112(a) and (b) and Rs. 10,00,000/- under Section 114AA on Gold weighing 10.175 kgs seized from the lavatory in which he has no connection whatsoever, deserves to be rejected, as there was no evidence to connect him to the case.
- (xiii). that AA dismissing his appeal on the grounds of non-compliance of Section 129E of the Act on the entire penalty amount was not justified.

Under the circumstance, the applicant has prayed to the revisionary authority that *in the interest of justice, to allow to pay pre-deposit only on the penalty w.r.t seizure of 116.64 grams of gold on which the penalty imposed under Section 112(a), 112(b) and 114AA of the Customs Act, 1962 i.e. pre-deposit @ 7.5% on Rs. 20,000/- would be Rs. 1500/- and to remand the case back and restore the appeal for deciding the same on merit in accordance with law.*

6. Applicant has filed an application for condonation of delay attributing that the delay was on account of some health-related issues.



7. Personal hearing in the case was scheduled for 09.08.2023, 23.08.2023. Shri. Sameer Kashimji, Advocate appeared for personal hearing on 09.08.2023 and reiterated earlier submissions. He further submitted that gold found in the lavatory has no connection with the applicant. He further submitted that applicant had only small quantity of gold. He further submitted that Commissioner (Appeals) has rejected the appeal as pre-deposit was not paid on entire amount. He requested to direct Commissioner (Appeals) to hear the case on merits based on mandatory deposit on penalty relatable to gold recovered from the applicant.

8. On the issue of condonation of delay, Government notes that the OIA dated 28.10.2021 was issued on 28.10.2021, itself. Applicant has submitted the FORM No. CA-8 i.e. his Revision Application on 05.07.2022 and therein has stated that he had received the OIA on 22.11.2021. Government notes that due to the pandemic situation in the country, the Apex Court had granted a moratorium for filing appeals etc from 15.03.2020 to 28.02.2022 [Misc. Appln. No. 21/2022]. The OIA had been issued during this period and accordingly, the applicant was required to file the revision application within 3 months from 01.03.2022 i.e. by 30.05.2022. Thereafter, the applicant has a further condonable period of 3 months which would have ended on 28.08.2023. Government finds that the applicant has filed the revision application on 05.07.2023 which falls within the condonable period. Therefore, the Government hereby, condones the delay.

9. At the outset, Government observes that the applicant has filed this revision application primarily on the issue that his request for payment of pre-deposit only on the penalty imposed on him on the quantum of gold that had been recovered from him had been rejected by the AA on grounds of non-compliance of provisions of Section 129E of the Customs Act, 1962, as he had not paid the pre-deposit amount on the penalty imposed on him on the quantum of gold that had been recovered from the lavatory at PIA. The AA while rejecting the appeal filed by the applicant had held that he could not travel beyond the jurisdiction of the statute

and allow the applicant to make pre-deposit only on Rs. 20,000/- which was the penalty imposed on him for the quantum of gold that had been recovered from his person i.e. which had been concealed in his body cavity.

10. Government observes that to grant relief or otherwise to the prayer now repeated in the revision application filed by the applicant, it would be imperative to go into the merits of the case and arrive at a conclusion whether there was *substantial evidence against the applicant* and his involvement in the smuggling of 10.175 Kgs of gold found on 16.08.2018 in the dustbin of the lavatory in the immigration hall at PIA.

11(a). The Government has gone through the facts of the case. Government notes that after the detection and seizure of 10.175 kgs of gold that had been left abandoned in the dustbin at PIA, the profiling of passengers and the analysis of CCTV footage etc had pointed suspicion in the direction of the Applicant, especially that he was a frequent traveller and had returned back from Dubai in 1 day and also that he had spent a considerable amount of time inside the lavatory at PIA from where the huge amount of gold had been recovered. Two cut pieces of a gold biscuit, totally weighing 116.64 and valued at Rs. 3,54,584/- was recovered from the applicant which he had concealed in his body cavity.

11(b). Investigations carried out led to two persons named Shri. Krushikesh Jadhav and Junaid, who admitted to their involvement in the smuggling activity and that they were smuggling the gold at the instance of one, Tashrif who was based at Dubai. Both, Shri. Krushikesh Jadhav and Junaid had provided the details of the smuggling activity and had both identified the photographs of the applicant when the same was shown to them. Junaid corroborated that Tashrif had sent the photograph of the applicant to him. Further, the CDRs of the mobile phone nos used by them were analysed. Also, the CDRs of the phone nos used by the applicant were analysed. The CDRs clearly indicated that the applicant was in constant touch with



Junaid on 16.08.2018. Also, in the morning of 16.08.2023, the applicant was in touch with Tashrif who was based in Dubai. The applicant had referred to Tashrif as Tasli. All this has been discussed by the OAA at paras 24.1(c)(iv), 24.1(c)(v) & 24.1(c)(vi) of the OIO dated 24.07.2020. The OAA had also assessed the entire evidence from the point of view of the doctrine of 'preponderance of probability' and had considered the non-retracted statements of Krushikesh and Junaid, identification of the photograph of the applicant by both Krushikesh Jadhav and Junaid, etc and had come to a conclusion that all these facts indicate the involvement of the applicant in the smuggling of gold weighing 10.175 kgs. Government notes that though the applicant when confronted with the evidence had given evasive replies, the evidence unearthed by the investigating agency against him was incriminating and credence would have to be given to the evidence, especially the CDRs. The OAA considering all these facts which were on record had accordingly, imposed penalties on him.

11(c). Government after analysing all the facts as per the records notes that the investigating agency had gathered plausible evidence of the involvement of the applicant in the smuggling of gold weighing 10.175 Kgs. The investigating agency had exposed the link which the applicant had with the other members of the syndicate involved in the smuggling.

12(a). Government notes that the OAA had passed a legal and judicious order. On the issue of the applicant that the AA had not granted their prayer of relaxation of the pre-deposit amount, Government notes that the AA vide his office letter dated 08.01.2021 had communicated with the applicant that as per the law he was not empowered to grant any relaxation in the payment of the pre-deposit amount and had accordingly requested the applicant to pay the pre-deposit in terms of the penalty imposed in the OIO. Since, no payment was made, the AA issued a reminder. But this too went unheeded. Government notes that Order passed by the AA is legal and proper.

12(b). Government notes that at the stage of taking up the appeal, the AA is not required to go into the merits of the case and evaluate the evidence and technicalities of the case. All this would come up later when the matter was taken up for decision. However, Government notes that in the interest of justice, the AA had granted an opportunity to the applicant to pay the pre-deposit and have the matter heard. Government finds that the AA had no option but to insist on the pre-deposit on the entire amount of the penalty imposed on the applicant. Government finds that the Order passed by the AA is legal and judicious.

13. Under the circumstances as discussed above, Government is not inclined to interfere in the OIA passed by the AA and finds the same to be proper and legal.

14. Accordingly, the revision application filed by the applicant is hereby, dismissed.

*Shrawan Kumar*  
20/10/23  
(SHRAWAN KUMAR)

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

ORDER No. 798 /2023-CUS (WZ) /ASRA/MUMBAI DATED 30.10.2023.

To,

1. Shri. Kollantavida Puthiya Purayil Savad, Jameela Manzil, Kakkat Kannur, Kerala - 670 005.
2. Commissioner of Customs, 41 / A, Sassoon Road, Pune - 411 001.

Copy to:

1. Shri. Sameer Kashimji, Advocate, 22, Sweet Home Apartments, Britto Lane, Falnir, Mangaluru, Karnataka, Pin : 575 001.
2. Sr. P.S. to AS (RA), Mumbai.
3. File Copy.
4. Notice Board.