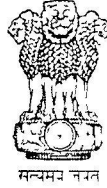


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GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
8th Floor, World Trade Centre, Centre – I, Cuffe Parade,
Mumbai-400 005

F.No. 371/357/B/2022-RA/663 : Date of Issue : 30.01.2024

ORDER NO. 80 /2024-CUS (WZ)/ASRA/MUMBAI DATED 24.01.2024 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 : Mr. Adil Ashraf Mukadam

Respondent : Pr. Commissioner of Customs, Airport-1, Mumbai.

Subject : Revision Application filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal No. MUM-CUSTM-PAX-APP-622-2019-20 dated 31.10 2019 passed by the Commissioner of Customs (Appeals), Mumbai-III.

ORDER

This revision application has been filed by Mr. Adil Ashraf Mukadam (herein referred to as Applicant) against the Order-in-Appeal No. MUM-CUSTOM-PAX-APP-622-2019-20 dated 31.10.2019 passed by the Commissioner of Customs (Appeals), Mumbai-III.

2 Brief facts of the case are that, officer of Customs at CSI Airport Mumbai on 15.10.2018, intercepted the applicant holding Indian Passport No. N-0542716 on his arrival at CSI Airport, Terminal 2, Mumbai from Dubai after he had opted to clear herself through Green Channel of Customs. Personal search of the applicant and detailed examination of his baggage resulted into the recovery of following items

Sr. No.	Description	Quantity	Value
1	12 Gold ring coated with silver layer	158 gms	4,49,077/-
2	Gudang Garam Cigarette	30 ctns	60,000/-
3	Assorted Goods		40000/-
Total			5,49,077/-

3. The case was adjudicated after waiver of SCN was requested by the applicant. The goods mentioned at No. 01 to 2 collectively valued at Rs. 5,09,077 were absolutely confiscated under Section 111(d) of Customs Act, 1962. The goods mentioned at sr. No 03 valued at Rs 40,000/- were confiscated under Section 111(d) of Customs Act, 1962, however redemption was allowed against payment of fine of Rs. 25,000/-. A penalty of Rs. 50,000/- under section 112 of the Customs Act, 1962 was also imposed on the applicant.

4. Aggrieved with the Order, the applicant filed an appeal before the Appellate Authority viz Commissioner of Customs (Appeals), Mumbai-III, who vide the impugned Order-in-Appeal, rejected the appeal, and upheld the OIO.

5. Aggrieved with the order of the Appellate authority, the Applicant has filed this revision application inter alia on the grounds that;

- 5.1 Applicant having no intention to hide the goods. HE was holding the impugned goods in his hand. When he was asked by the Customs Officers whether he has anything to declare, and his answer was positive. He informed the Officers that he was carrying a round shape gold and some cigarettes for his personal use and wants to pay the duty as applicable. Even after that he was not allowed to the Customs allotted counter to declare the impugned gold before intercepting Officer under Section 77 of The Customs Act, 1962. The applicant has not crossed the Customs barrier.
- 5.2 The Applicant further submits that gold was brought for personal use.
- 5.3 The Respondent ought not to have confiscated the gold absolutely as it is not a prohibited item as per EXIM policy. The absolute confiscation is very harsh.
- 5.4 the Respondent did not appreciate the facts that the gold does not comes under prohibited goods and therefore the Section 125 of The Customs Act, 1962 is attracted. Under the circumstances the absolute confiscation is very harsh
- 5.5 the Respondent should have not imposed penalty on him when ingredients of Section 112 (a) of The Customs Act, 1962 not proved in this case. The Respondent ought not to have imposed the penalty on the Applicant when there is no mens rea on the part of the Applicant.
- 5.6 The Applicant submits that he is the owner of the goods and claimed ownership before the adjudicating authority and also the investigation has not proved otherwise. Hence goods should be released to the person

who claimed ownership of the goods on imposition of duty, moderate fine and penalty.

5.7 Applicant requested to set aside the impugned OIA and to allow clearance of goods on payment of duty, fine and penalty.

6. Personal hearing in the case was scheduled on 05.09.2023. Ms. Reema Deshnehare, Advocate for the applicant appeared for personal hearing and submitted that applicant brought small quantity of gold for personal use. She further submitted that there was no concealment and applicant is not a habitual offender. She requested to allow redemption of goods on nominal fine and penalty.

7. Government observes that the applicant has filed an application for condonation of delay. Applicant has stated that the OIA was received by him on 04.08.2020 and that there was delay in filing the application due to the disruption caused by COVID. Government observes that the applicant was required to file the revision application within 3 months i.e. by. 04.11.2020. Considering, the further extension of 3 months which can be condoned, the applicant was required to file the revision by 04.02.2021. The applicant had filed the revision application on 08.08.2022. The Government notes that due to the outbreak of Covid-19 pandemic in March, 2020, the Hon'ble Supreme Court in M.A no. 665 of 2021 (initial order) had extended the period of limitation for any suit, appeal, application or proceeding and had held that the period from 15.03.2020 till 28.02.2022 shall stand excluded. Even considering this exclusion, the revision application filed by the applicant on 08.08.2022 reflects a delay of more than 180 days. It is pertinent to note that Government has no power to condone the delay after the extended period of 3 months.

8. In view of above, Government finds that the current revision application submitted by the applicant exceeds the stipulated time limitation period and is,

therefore, time-barred. Consequently, Government dismiss the present revision application without delving into the merits of the case.

Shrawan Kumar
(SHRAWAN KUMAR)

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

ORDER NO. 30 /2024-CUS (WZ)/ASRA/MUMBAI DATED 21.01.2024

To,

1. Mr. Adil Ashraf Mukadam, 204, Faruk Apartment, Tal-Khed, Ratnagiri-415709.
2. The Pr. Commissioner of Customs, Airport-I, Chhatrapati Shivaji International Airport, Terminal - 2, Level - II, Andheri(E), Mumbai - 400099.

Copy to:

1. The Commissioner of Custom Appeals, Mumbai-III, Awas Corporate Point (5th Floor), Makwana Lane, Behind S. M. Centre Andheri-Kurla Road, Marol, Mumbai-400059.
2. Sr. P.S. to AS (RA), Mumbai.
3. File Copy.
4. Notice Board.
5. Ms Reema Deshpande, Advocate

