



GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(DEPARTMENT OF REVENUE)

8<sup>th</sup> Floor, World Trade Centre, Centre – I, Cuffe Parade,  
Mumbai-400 005

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F.No. 371/110-A/B/WZ/2020-RA/7732 : Date of Issue: 02.10.2023

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ORDER NO. 800 /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.

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Applicant : Shri. Masoor Khan Anwar Khan Farooqui

Respondent : Pr. Commissioner of Customs (Airport), CSI, Mumbai.

Subject : Revision Application filed, under Section 129DD of the  
Customs Act, 1962 against the Order-in-Appeal No.  
MUM-CUSTM-PAX-APP-775/2019-20 dated 23.12.2019  
issued on 27.12.2019 through F.No. S/49-255/2019  
passed by the Commissioner of Customs (Appeals),  
Mumbai – III.

ORDER

This Revision application has been filed by Shri. Mansoor Khan Anwar Khan Farooqui (herein referred to as Applicant) against the Order-in-Appeal No. MUM-CUSTM-PAX-APP-775/2019-20 dated 23.12.2019 issued on 27.12.2019 through F.No. S/49-255/2019 passed by the Commissioner of Customs (Appeals), Mumbai – III.

2. Brief facts of the case are that on 05.08.2018, the officers of AIU, Customs, CSMI Airport, Mumbai intercepted Shri. Mansoor Khan Anwar Khan Farooqui, the Applicant holding Indian Passport No. P 3150880 who was about to depart from India to Dubai by Jet Airways Flight No. 9W 536. Detailed examination of his baggage conducted in the presence of Pancha witnesses, resulted in the recovery of 25 kgs Peacock Feathers. His bag contained 55 bundles of Peacock feathers, each bundle contained 6 bunches and each bunch had around 120 small feathers. The Peacock feathers were seized under the reasonable belief that the same were attempted to be smuggled out of India in a clandestine manner and hence liable for confiscation under the provisions of the Customs Act, 1962 read with the Wildlife Protection Act, 1972. The seized peacock feathers were valued at Rs.1,50,000/-. In the statement recorded, the applicant admitted the possession, concealment, non-declaration of the peacock feathers and that he carried the feathers for his friend who agreed to pay him Rs.10,000/- along with the to and fro tickets from Mumbai to Dubai. To the query whether the peacock feathers were self-dropped or forcibly plucked, the Wild Life Crime Control Bureau replied that in the absence of root tips on the feathers, it's not feasible to ascertain the same.

3. After due process of investigations and the law, the Original Adjudicating Authority (OAA) i.e. the Deputy Commissioner of Customs, CSMI Airport, Mumbai, vide Order-In-Original No. SD/INT/AIU/359/2018-AP-'D' dated 13-02-2018 ordered for the absolute confiscation of the peacock feathers weighing 25



Kg and valued at Rs.1,50,000/- (Rupees Two Lakhs only) under Section 113(d), (e) and (h) of the Customs Act, 1962 and imposed a penalty of Rs. 50,000/- on the applicant under Section 114(i) and (ii) of the Customs Act, 1962.

4. Aggrieved by this Order, the applicant preferred an appeal before the appellate authority (AA) i.e. Commissioner of Customs (Appeal), Mumbai – III, who vide Order-in-Appeal No. MUM-CUSTOM-PAX-APP-775/2019-20 dated 23.12.2019 issued on 27.12.2019 through F.No. S/49-255/2019 did not find any reason to interfere with the Order-in-Original passed by the OAA and upheld the same.

5. Aggrieved by the Appellate Authority's Order, the applicant has filed an application for condonation of delay in filing the present revision application and the said revision application is filed on the undermentioned grounds:

- 5.01 That the said peacock feathers belonged to the applicant and he was taking the same to Dubai for selling the same;
- 5.02 That 25 kgs of peacock feathers is not commercial quantity and also that the applicant has not contravened any provisions of the Customs Act or Wild Life Protection Act, as no life of any species were endangered;
- 5.03 That the letter issued by the Environmental Authorities did not state that the peacock feathers were plucked feathers;
- 5.04 That the peacock feathers belonged to him and that he was not acting as a carrier for anybody;
- 5.05 That the Orders passed by the Adjudicating Authority and the Appellate Authority are based on presumption and assumption only and without ascertaining the true and correct facts of the case;
- 5.06 That the Orders passed by the Adjudicating Authority and the Appellate Authority is illegal and bad in law, hence the same needs to be quashed and set aside.

6. Personal hearing in the case was scheduled for 07.08.2023. Ms Shivangi Khejrani, Advocate for the applicant appeared for the hearing and submitted that applicant was carrying peacock feathers to UAE. She further submitted to release the same on reasonable Redemption fine and penalty.

7.1 Government observes that the applicant has filed an application for condonation of delay. Applicant has stated that the OIA was received by him on 06.01.2020 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 05.04.2020. Considering, the further extension of 3 months which can be condoned, the applicant was required to file the revision by 05.07.2020. The applicant had filed the revision application on 24.06.2020 which is within the extendable period and hence the Government condones the delay and goes into the merits of the case.

7.2 The Government has gone through the facts of the case. The applicant was carrying peacock feathers from India to Dubai. The export and import of peacock feathers are prohibited as per the various Allied Acts and the Conventions on International Trade in Endangered Species of Wild Flora & Fauna (CITES). Furthermore, the Applicant was aware that exporting peacock feathers is prohibited and an offence under the Indian Law. The action committed by the applicant was pre-meditated, conscious and being aware of the gravity of the offence, the confiscation of the seized peacock feathers is justified.

8.1 The relevant sections of the Customs Act are reproduced below:

Section 2(33)

*“prohibited goods” means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been*



*complied with”*

8.2 Government notes that Peacock is India's National Bird and is protected under schedule I of Wildlife Protection Act, 1972, and export of their feathers is prohibited under India's export-import policy. The applicant has in their Revision Application has admitted that he was carrying the feathers to sell in Dubai. He had carried about 25 Kgs of peacock feathers. Government finds that the applicant by attempting to smuggle the impugned peacock feathers out of India which is a prohibited item in terms of DGFT's Export Policy, Wild Life Protection Act, 1972 and CITES, has rendered himself for penal action and confiscation of the same is just and legal.

9 Government notes that the Original Adjudicating Authority in his Order has justified the confiscation of the feathers which is as under:

*“5.4 It is observed that in the instant case that the passenger was found with 25 kgs of Peacock feathers. I find that Peacock Tail feathers is classified under CTH 05059010 of ITC (HS) code, which is also listed at Serial No. 42 under Schedule 2 of Export Policy issued by DGFT and export of Peacock Tail Feather is prohibited as it is covered under Wild Life (Protection) Act, 1972 and in Appendix III of Convention on International Trade in Endangered Species of Wild Flora & Fauna (CITES) and hence in terms of Section 2(33) of the Customs Act, 1962, the same appears to be liable for confiscation under 113 (d), (e) & (h) of the Customs Act, 1962.*

*5.5 Any goods imported or exported in violation to the restrictions would render such goods liable to confiscation and the passenger would render himself/herself liable to penal action for his/her act of omission and commission”*

10.1 Government finds the Order of absolutely confiscating the peacock feathers issued by the OAA is just and legal. With regards to the Applicant's request to release the feathers on payment of redemption fine and penalty for domestic

trade, Government finds the absence of the root tip of the peacock feather (as examined and reported by the Wild Life Crime Control Bureau) raises a doubt about whether it was naturally self-dropped or plucked and therefore does not consider to release the same. The AA has considered all the averments made by the applicant and had rejected the same. Government finds that the OIA passed by the AA is legal and proper and therefore, is not inclined to interfere in the same.

10.2 Government finds that the penalty of Rs.50,000/- imposed on the applicant for the value of the peacock feathers amounting to Rs.1,50,000/- under Section 114(i) and (ii) is excessive and considers reducing the same. In view of the above, the penalty of Rs. 50,000/- imposed under section 114(i) and (ii) of the Customs Act, 1962, is reduced to Rs. 15,000/- (Rupees Fifteen Thousand Only).

11. Accordingly, the Revision Application filed by the applicant is disposed of on the above terms.

  
(SHRAWAN KUMAR)

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

ORDER No. 800 /2023-CUS (WZ) /ASRA/ DATED 30.10.2023

To,

1. Shri. Mansoor Khan Anwar Khan Farooqui, A/12/1 Municipal Colony, Near Lagansara Maidan Park site, Vikhroli (West), Mumbai-400079.
2. The Pr. Commissioner of Customs, Level - 2, Terminal 2, Level-II, Sahar, Andheri (East), Mumbai- 400 099.
3. The Commissioner of Customs (Appeals), Mumbai-III, 5th Floor, Avas Corporate Point, Makwana Lane, Behind S. M. Centre, Andheri Kurla Road, Andheri (East), Mumbai 400 059.

Copy to:

1. Ms. Shivangi Kherajani, Advocate, 501, Savtri Navbahar CHS Ltd., 19<sup>th</sup> Road, Khar (West), Mumbai-400052.
2. Sr. P.S. to AS (RA), Mumbai.
3. File Copy.
4. Notice Board.