



सत्यमेव जयते

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

F.No. 373/264/B/14-RA { १०१V

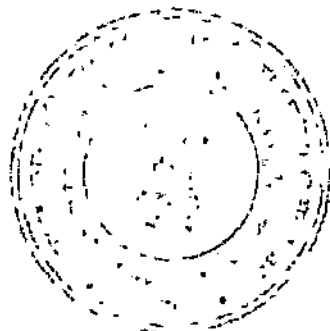
Date of Issue 28.11.2018

ORDER NO. 810/2018-CUS (SZ) / ASRA / MUMBAI/ DATED 17.10.2018 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 : Shri Subbiah Karupiah

Respondent : Commissioner of Customs, Chennai.

Subject : Revision Application filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal No. C. Cus-I No. 137/2014 dated 30.01.2014 passed by the Commissioner of Customs (Appeals), Chennai.



ORDER

This revision application has been filed by Shri Subbiah Karupiah (herein referred to as Applicant) against the Order in Appeal C. Cus No. 137/2014 dated 30.01.2014 passed by the Commissioner of Customs (Appeals), Chennai.

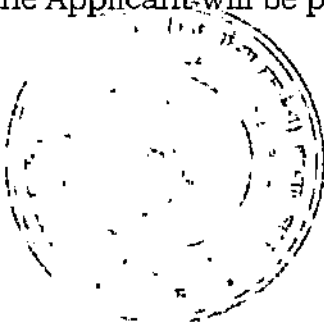
2. Briefly stated the facts of the case are that the applicant, arrived at the Chennai Airport on 08.07.2014. He was intercepted and examination of his person resulted in the recovery of a gold chain with pendant weighing 80.5 gms valued at Rs. 2,07,447/- (Rupees Two lakhs Seven thousand Four Hundred and Forty Seven). The gold was recovered from the baggage carried by the Applicant.

3. After due process of the law vide Order-In-Original No. 608/2014 Batch C the Original Adjudicating Authority ordered confiscation of the gold under Section 111 (d) and e, (l), (m) of the Customs Act read with Section 3 (3) of Foreign Trade (Development & Regulation) Act, but allowed redemption of the same on payment of Rs. 1,04,000/- as redemption fine and imposed penalty of Rs. 20,800/- under Section 112 (a) of the Customs Act, 1962.

4. Aggrieved by the said order, the applicant filed appeal before the Commissioner (Appeals) application who vide Order-In-Appeal C. Cus No. 137/2014 dated 30.01.2014 rejected the appeal of the Applicant.

5. The applicant has filed this Revision Application inter alia on the following grounds that

5.1 The order of the authorities are against the law weight of evidence and probabilities of the case; The Applicant had not crossed the Green channel; The Applicant was wearing the gold chain for the past two years; The redemption fine and penalty imposed is very high and oppressive; The Applicant has come back after one month of staying in Singapore and is not a carrier but the order has branded him a smuggler; The gold being personal should have been released without redemption fine and penalty; If the gold chain is confiscated the Applicant will be put at a very irreparable loss and hardship; The Applicant



may be allowed to take the gold back to Singapore by giving him the benefit of doubt and the gold may be allowed to be re-exported.

5.2 The Revision Applicant prayed for setting aside the Order in Appeal and release of the gold without redemption fine and penalty or pass such order as deem fit in the interest of justice.

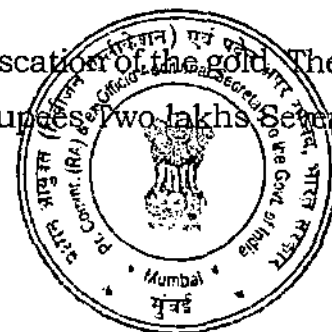
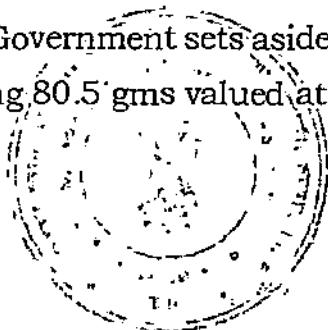
5. A personal hearing in the case was scheduled to be held on 28.09.2018. Kumar Shri Abdul Nazeer , Advocate for the Applicant attended the hearing, he re-iterated the submissions filed in Revision Application and cited the decisions of GOI/Tribunals and requested for a lenient view to be taken in the matter. Nobody from the department attended the personal hearing.

6. The Government has gone through the facts of the case. A proper written declaration of gold was not made by the Applicant as required under Section 77 of the Customs Act, 1962 and under the circumstances confiscation of the gold is justified.

7. However, the facts of the case state that the Applicant had not cleared the Green Channel. The impugned gold was carried by the applicant and it was not indigenously concealed. Import of gold is restricted not prohibited. The CBEC Circular 09/2001 gives specific directions to the Customs officer in case the declaration form is incomplete/not filled up, the proper Customs officer should help the passenger record to the oral declaration on the Disembarkation Card and only thereafter should countersign/stamp the same, after taking the passenger's signature. Thus, mere non-submission of the declaration cannot be held against the Applicant.

8. The Government therefore agrees with the Order in Original and the Appellate order in allowing the gold for redemption on payment of redemption fine and penalty. However, Government, observes that the redemption fine and penalty is high, the Applicant has pleaded for a reduction of redemption fine and penalty and allow re-export and the Government is inclined to accept the plea. In view of the above facts, the impugned Order in Appeal therefore needs to be modified.

9. The Government sets aside the absolute confiscation of the gold. The impugned gold weighing 80.5 gms valued at Rs. 2,07,447/- (Rupees two lakhs Seven thousand



Four Hundred and Forty Seven) is allowed to be redeemed for re-export. The redemption fine is reduced from Rs. 1,04,000/- (Rupees One lakh Four thousand) to Rs. 75,000/- (Rupees Seventy Five thousand). Government observes that the facts of the case justify reduction in the penalty imposed. The penalty of Rs. 20,800/- (Rupees Twenty thousand Eight hundred) is reduced to Rs. 15,000/- (Rupees Fifteen thousand) under section 112(a) of the Customs Act,1962.

10. The impugned Order in Appeal is modified as detailed above. Revision application is partly allowed on above terms.

11. So, ordered.

(Handwritten signature)
17/10/18

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

ORDER No. 86/2018-CUS (SZ) /ASRA/

DATED 17-10-2018

To,

Shri Subbiah Karuppiah
c/o Shri Abdul Nazeer Advocate.
65, Baracah Road, Varadamma Garden Street,
Kilpauk,
Chennai – 600 010.

ATTESTED

B. LOKANATHA REDDY
Deputy Commissioner (R.A.)

Copy to:

1. The Commissioner of Customs, Anna International Airport, Chennai.
2. The Commissioner of Customs (Appeals-I), Custom House, Chennai.
3. Sr. P.S. to AS (RA), Mumbai.
4. Guard File.
5. Spare Copy.

