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SPEED POST

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

F.No.373/19/B/17-RA(Mum) / 3413

Date of Issue 28.07.2020

ORDER NO. 81/2020-CUS (SZ)/ASRA/MUMBAI DATED 22.06.2020 OF THE GOVERNMENT OF INDIA PASSED BY SMT. SEEMA ARORA, PRINCIPAL COMMISSIONER & EX-OFFICIO ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA, UNDER SECTION 129DD OF THE CUSTOMS ACT, 1962.

Applicant : Shri Manoram Chitanya Das

Respondent : Commissioner of Customs, Chennai.

Subject : Revision Application filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal C.Cus-I No. 179/2017 dated 28.09.2017 passed by the Commissioner of Customs (Appeals-I), Chennai.



ORDER

This revision application has been filed by Shri Manoram Chitanya Das (herein after referred to as the Applicant) against the order in appeal Order-in-Appeal C. Cus-I No. 179/2017 dated 28.09.2017 passed by the Commissioner of Customs (Appeals-I), Chennai.

2. Briefly stated the facts of the case are that the Applicant, a US citizen arrived from Kualalumpur on 26.03.2017 and was noticed wearing gold chains, when making enquiries regarding foreign currency a person can carry at the time of arrival and departure. On examination he was found carrying one gold kada in his shirt pocket, wearing two gold chains and gold rings totally weighing 325 grams valued at Rs. 9,64,275/- (Rupees Nine lacsSixty four thousand Two hundred and Seventy Five).

3. The Original Adjudicating Authority vide Order-In-Original No. 74/2017-18 Airport dated 21.07.2017 ordered confiscation of the impugned gold and allowed it to be redeemed on payment of Rs. 4,50,000/- (Rupees Four lacs Fifty thousand) under Section 125 of the Customs Act,1962, and imposed penalty of Rs. 1,00,000/- (Rupees One lac) under Section 112 (a) of the Customs Act. A penalty of Rs. 1,00,000/- (Rupees One lac)was also imposed under Section 114AA of the Customs Act 1962.

4. Aggrieved by the said order, the applicant filed appeal before the Commissioner (Appeals) who vide Order-In-Appeal No. C. Cus-I No. 179/2017 dated 28.09.2017 reduced the redemption fine from Rs. 4,50,000/- (Rupees Four lacs Fifty thousand) to Rs. 2,40,000/- (Rupees Two lacs Forty thousand)and also set aside the penalty levied under Section 114AA of the Customs Act

Aggrieved with the above order the Applicant, has filed this revision application pleading that he voluntarily went to the officers at the red zone to enquire and get details of currency and customs duty required to be paid to



bring gold ornaments. The jewelry was brought for his personal use. The case has been mis understood and misjudged by the officers at the airport. The CCTV footage will ascertain the facts on whether the Applicant was intercepted or went voluntarily to the Customs officers.

6. A personal hearing in the case was held in the case on 03.12.2019, the Applicant Shri Manoram Chitanya Das, attended the hearing, he re-iterated that he voluntarily informed the officers that he had brought gold and was falsely implicated of not having declared. He further stated that he was a US citizen and had no malafide intention. And sought reduction in redemption fine and penalty.

7. The facts of the case reveal that the Applicant had brought gold jewelry totally weighing 325 grams valued at Rs. 9,64,275/- (Rupees Nine lacs Sixty four thousand Two hundred and Seventy Five). The Applicant claims to have declared the gold himself, however Government notes that in the absence of a proper declaration as required under section 77 of the Customs Act, 1962 the confiscation of the gold cannot be disputed.

8. However, import of gold is restricted not prohibited and the quantity of gold under import is small. The Applicant is an US citizen and the jewelry was brought for his personal use. The gold chains and ring was worn and the kada was recovered from the Applicant's trouser pocket. As the gold chains and ring were worn it was visible to the naked eye and hence there was no ingenious concealment. The Applicant does not have any previous cases registered in his name. The ownership of the gold is not disputed. Further the facts of the case reveal that the Applicant proceeded to the Red channel himself and the gold ornaments were recovered at the red channel. In view of the above and the fact that the Applicant is a foreign citizen the Government would like to take a lenient view in the case.



9. Accordingly, redemption fine of Rs. 2,40,000/- (Rupees Two lacs Forty thousand) is reduced to Rs. 1,20,000/- (Rupees One Lakh Twenty Thousand Only) and allowed re-export. The penalty imposed under section 112 (a) is also reduced from Rs. 1,00,000/- (Rupees One lac) to Rs. 50,000/- (Rupees Fifty Thousand Only).

10. Revision application is disposed off on above terms.

11. So, ordered.

(SEEMA ANORA)
Principal Commissioner & ex-officio
Additional Secretary to Government of India

ORDER No. 81/2020-CUS (SZ) /ASRA/~~Mumbai~~

DATED 22.06.2020

To,

Shri Manoram Chitanya Das
C/o Shri Srinivas, 20, SBI Colony,
Apartment G-1, NRGs Hospital,
Pallavanthangal, Chennai- 600 114.

ATTESTED

B. LOKANATHA REDDY
Deputy Commissioner (R.A)

Copy To,

1. The Commissioner of Customs, Chennai -I Commissionerate, New Custom House, Meenambakam, Chennai-600 027.
2. Sr. P.S. to AS (RA), Mumbai.
3. Guard File.
4. Spare Copy.

