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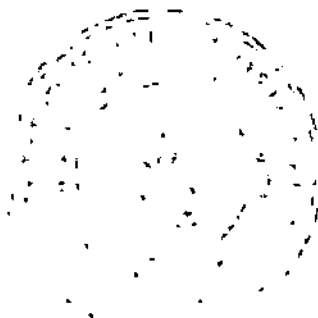
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
8th Floor, World Trade Centre, Centre - I, Cuffe Parade,
Mumbai - 400 005

F.No. 373/98/B/2018-RA / 2/15

Date of Issue 29.11.2018

ORDER NO. 846/2018-CUS (SZ) / ASRA / MUMBAI/ DATED 25.10.2018 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 Kadher Meera
Respondent : Commissioner of Customs, Tiruchirapally.
Subject : Revision Application filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal No. TCP-CUS-000-APP-052-18 dated 28.02.2018 passed by the Commissioner of CGST & C. Ex (Appeals), Trichirapally.



ORDER

This revision application has been filed by Shri Kadher Meera (herein referred to as Applicant) against the Order in Appeal C. Cus-I No. TCP-CUS-000-APP-052-18 dated 28.02.2018 passed by the Commissioner of CGST & C. Ex (Appeals), Trichirapally.

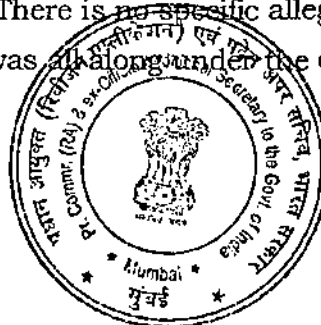
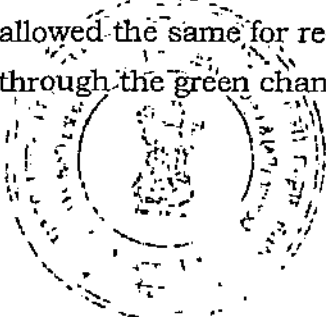
2. Briefly stated the facts of the case are that the applicant, arrived at the Trichy Airport on 05.04.2017. Examination of his person resulted in the recovery of 2 nos of DJI Phantom 4 Pro Drone valued at Rs. 3,50,000/-, 2 nos of DJI Mavic 4 Pro Drone valued at Rs. 2,12,000/-, 4 nos of old laptops valued at Rs. 60,000/- and 4 nos. cut gold pieces weighing 102 grams valued at Rs. 2,74,147/- (Rupees Two lakhs Seventy Four thousand One hundred and Forty Seven).

3. The Original Adjudicating Authority, vide its Order in Original No. 70/2017 dated 10.04.2017 confiscated the goods viz old laptops valued at Rs. 60,000/- allowing it to be redeemed on payment of Rs. 10,000/- and absolutely confiscated the gold and the drones valued at Rs. 8,36,147/- under Section 111 (d), (l), (o) and (m) of the Customs Act, 1962. A penalty of Rs. 2,00,000/- under Section 112 (a) of the Customs Act, 1962 was also imposed on the Applicant.

4. Aggrieved by this order the Applicant filed an appeal with the Commissioner (Appeals), Commissioner of Central Excise (Appeals) Chennai, vide his Order-in-Appeal No TCP-CUS-000-APP-052-18 dated 28.02.2018 rejected the appeal of the Applicant.

5. Aggrieved with the above order the Applicant has filed this revision application interalia on the grounds that.

5.1 The order of the appellate authority has been passed against law, weight of evidence and circumstances and probabilities of the case; The Appellate authority has simply glossed over the judgements and the points raised in the appeal grounds and reason has been given to reject the Appeal; The adjudication authority has thrown so many allegations against the Applicant but the same is not supported with any evidence; Though the laptops are old and use the Adjudication authority has assessed them as if they are fresh pieces; In a similar case wherein similar drones were under import the Adjudication authority vide OS No. 183/2017 Batch D Chinniah Dileep Kumar has allowed the same for re-export; There is no specific allegation that he has tried to pass through the green channel, he was all along under the control of the officers at the red



channel; the applicant had come back to India after a gap of 3 days but no free allowance was given to him; The Hon'ble Supreme Court in the case of M/s Aggarwal Distributors (P) Ltd. Vs Commissioner of Customs New Delhi reported in 2000(117) ELT 49 (Tribunal) has categorically stated that " Documents displayed on internet, being unsigned are not reliable and cannot be relied upon to calculate value".

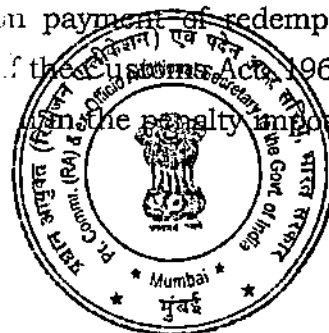
5.3 The Revision Applicant cited various judgments in support of his case and prayed for setting aside the Order and reduce the redemption fine and personal penalty and thus render justice.

6. A personal hearing in the case was held on 25.09.2018, the Advocate for the respondent Shri Palanikumar attended the hearing he presented the submissions filed in Revision Application and cited the decisions of GOI/Tribunals where option for re-export of the goods was allowed. Nobody from the department attended the personal hearing.

7. The Government has gone through the facts of the case. The items were not declared as required under section 77 of the Customs Act, 1962 and therefore the confiscation of all the goods is justified.

8. However, the Government notes that the impugned goods and gold were recovered from his baggage and they were not indigenously produced. There are no previous offences registered against the Applicant; There are no indications that the Applicant had tried to clear the Green Channel. The ownership of the goods are not disputed. The Applicant was not involved in any offences earlier and it was not a hardcore attempt to smuggle the goods into India. In view of the above facts, the Government is of the opinion absolute confiscation of the goods and the gold is harsh and a lenient view should be taken in the matter. The Applicant has pointed out that re-export of similar goods has been allowed by the adjudicating authority, and has pleaded for re-export of the goods and the Government is inclined to accept the plea. The order of absolute confiscation of the goods in the impugned Order in Appeal therefore needs to be modified.

9. Taking into consideration the foregoing, Government allows redemption of the confiscated goods and gold for re-export. The gold and the other items totally valued at Rs. Rs. 8,36,147/- (Rupees Eight lakhs and Thirty Six thousand One hundred and Forty seven) is ordered to be redeemed for re-export on payment of redemption fine of Rs. 4,00,000/- (Rupees Four lakhs) under section 77 of the Customs Act, 1962. Government also observes that the facts of the case justify the penalty imposed. The penalty



imposed on the Applicant is therefore reduced from Rs. 2,00,000/- (Rupees Two lakhs) to Rs. 1,00,000/- (Rupees One lakh) 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)
25/10/18

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

ORDER No. 846/2018-CUS (SZ) /ASRA/

DATED 25-10-2018

To,

Shri Kadher Meera
C/o S. Palanikumar, Advocate,
No. 10, Sunkurama Chetty Street,
Opp High Court, 2nd Floor,
Chennai 600 001.

Copy to:

1. The Commissioner of Customs, Tiruchirapally.
2. The Commissioner of Customs CGST & C. Ex (Appeals), Trichirapally.
3. Sr. P.S. to AS (RA), Mumbai.
4. Guard File.
5. Spare Copy.

