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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. 373/115/B/14-RA/1246

Date of Issue 06-03-2018

ORDER NO. 25/2018-CUS (SZ)/ASRA/MUMBAI DATED 05.03.2018 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. Kader Maideen Pahuruteen.

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 No. 368/2014 dated 05.03.2014 passed by the Commissioner of Customs (Appeals), Chennai.



ORDER

This revision application has been filed by Shri Kader Maideen Pahuruteen (herein referred to as Applicant) against the order C. Cus. no 368/2014 dated 05.03.2014 passed by the Commissioner of Customs (Appeals), Chennai.

2. Briefly stated facts of the case are that the applicant, an Indian National had arrived at the Chennai Airport on 05.12.2013. Examination of his baggage resulted in recovery of assorted items/ goods totally valued at Rs.1,04,000/- as detailed below;

Sl. No.	Description of Goods	Quantity	Amount (in Rs.)
1	Lenovo Laptop (old)	2	16,000/-
2	Sigma Zoom Lens	1	25,000/-
3	Accessories for Sony DIG VID Camera RCR	7	63,000/-
		Total	1,04,000/-

The Original Adjudicating Authority, allowed clearance of the goods referred to at Sl. Nos 1 and 2 valued at Rs. 41,000/- on payment of duty. The Accessories for Sony DIG VID Camera RCR were held to be in commercial quantity and confiscated under Section 111 (d), (l), (m) and (o) of the Customs Act, 1962 and allowed redemption on payment of redemption fine of Rs. 30,000/-. A penalty of Rs. 10,000/- under Section 112 (a) of the Customs Act, 1962 was also imposed on the Applicant. Aggrieved by this order the Applicant filed an appeal with the Commissioner of Customs (Appeals) Chennai. The Commissioner of Customs (Appeals) Chennai, vide his order C.Cus No. 368/2014 dated 05.03.2014 observed that the Applicant is a frequent traveller and already has three earlier cases registered against him and rejected the Appeal of the Applicant.

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

3.1 The order of the appellate authority is against law, weight of evidence and circumstances and probabilities of the case.

3.2 The items featuring at Sl. No 1, 2 and 3 are for his personal use and not for sale and cannot be termed as commercial quantity.

3.3 There was no concealment or misdeclaration.

3.4 The value of the goods adopted by the lower authorities was on the higher side.

3.5 Both the Respondents have ignored orders of the High Court and Government of India in similar matters.

The Revision Applicant prays that the Hon'ble Revision Authority may be pleased to set aside both the lower authorities orders and set aside fine of Rs. 30,000/- and penalty Rs. 10,000/- and thereby render justice.

4. A personal hearing in the case was scheduled to be held on 14.02.2018, the Advocate for the respondent Shri K. Mohammed Ismail in his letter dated 12.02.2018 informed that his clients are unable to send their counsel all the way to Mumbai from Chennai and requested that the personal hearing may be waived and the grounds of the Revision Application may be taken as arguments for this Revision, and decide the cases as per relief sought for in the prayer of the Revision and oblige. Nobody from the department attended the personal hearing.

5. The Government has gone through the facts of the case. The goods were not declared by the passenger as required under Section 77 of the Customs Act, 1962. The goods that were brought in commercial quantity and the Applicant is a frequent traveler and already has three offences registered against him. The goods are not bonafide goods. Under the circumstances confiscation of the goods is justified.

6. However, the Applicant was not intercepted while trying to exit the Green Channel. There was no concealment of the goods, and neither was there a concerted attempt at smuggling these goods into India. The two laptops are old and Duty free allowance as applicable has not been extended to the Applicant. The Applicant is a frequent traveller and has previous offences registered against him. Government, however observes that there is no allegation of misdeclaration or concealment this time and the Applicant claims to have made an oral declaration which has not been disputed. Under the circumstances Government,

holds that while imposing redemption fine and penalty the applicant can still be treated with a lenient view.

7. Taking into consideration the foregoing discussion, Government, reduces the redemption fine imposed by the Appellate authority from Rs.30,000/- (Thirty thousand) to Rs... 20,000/- (Rupees Twenty thousand). Government also observes that the facts of the case justify slight reduction in the penalty imposed. The penalty imposed on the Applicant is therefore reduced from Rs. 10,000/- (Rupees Ten thousand) to Rs 8,000/- (Rupees Eight thousand) under section 112(a) of the Customs Act,1962.

8. The impugned Order in Appeal stands modified to that extent.

9. Revision application is partly allowed on above terms.

10. So, ordered.

Ashok Kumar Mehta
5/3/2018

(ASHOK KUMAR MEHTA)

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

ORDER No. 85/2018-CUS (SZ) /ASRA/MUMBAI

DATED 05-03-2018

True Copy Attested

To,

Shri Kader Maideen Pahuruteen
S/o Kader Maideen,
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Broadway Chennai - 600 001,
Tamil Nadu.

S. R. Hirulkar
6/3/18
एस. आर. हिरुलकर
S. R. HIRULKAR
(A.C.)

Copy to:

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