

**REGISTERED
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.373/219/B/16-RA / 3296 Date of Issue 28.08.2020

ORDER NO. 85/2020-CUS (SZ)/ASRA/MUMBAI DATED 23.06.2020 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 : Smt. Ameena Begum

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. 250/2016 dated 28.06.2016 passed by the
Commissioner of Customs (Appeals), Chennai.



ORDER

This revision application has been filed by Smt. Ameena Begum (herein after referred to as the Applicant) against the order in appeal Order-in-Appeal C. Cus-I No. 250/2016 dated 28.06.2016 passed by the Commissioner of Customs (Appeals), Chennai.

2. Briefly stated the facts of the case are that the Applicant, arrived from Kuala Lumpur on 28.02.2015 and was intercepted at the green channel. On personal examination she was found carrying four copper coloured gold chains worn on her neck, ten copper coated bangles worn on her hands. Apart from this she was carrying six more gold chains and three bracelets in a packet, kept in her shorts worn by her. The gold totally was weighing 1204 grams and valued at Rs. 30,53,344/- (Rupees Thirty Lakh Fifty Three Thousand Three Hundred and Forty Four Only).

3. The Original Adjudicating Authority vide Order-In-Original No. 444/30.01.2016 ordered absolute confiscation of the impugned gold under Section 111 (d) (l) of the Customs Act,1962, and imposed penalty of Rs. 3,00,000/- (Rupees Three lakh) under Section 112 (a) of the Customs Act.

4. Aggrieved by the said order, the applicant filed appeal before the Commissioner (Appeals) who vide Order-In-Appeal No. C. Cus-I No. 250/2016 dated 28.06.2016 rejected the appeal of the Applicant.

5. Aggrieved with the above order the Applicant, has filed this revision application on the following grounds;

5.1 The Applicant had carried gold jewelry on her person, The Applicant had taken this gold jewelry with her when she went to Kuala Lumpur to attend a family wedding and other connected functions and brought them back. The Applicant did not realize the importance of declaration before the Customs authorities as she was unaware of Customs procedure. The Appellant had legitimately bought those gold jewelry which were her own.;



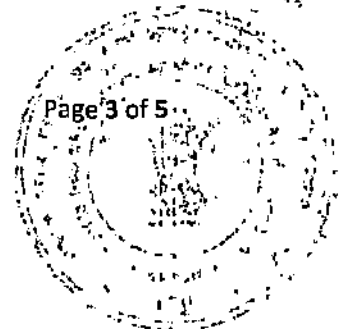
5.2 It is respectfully submitted that the entire proceeding was completed when as confined to the Customs area without any chance to get legal assistance.; The Applicant submits that the possession of gold jewelry may not be considered as if she has committed a grievous offence necessitating absolute confiscation and imposition of penalty of Rs. 3,00,000/- (Rupees Three Lakh Only) in terms of Section 112(a) of Customs Act of 1962 on the Appellant.; The Appellant respectfully submits that she shall not be categorized as a smuggler just because she carried the said gold jewelry, which were her own.; It is humbly submitted that the Appellant was well within the Customs area and had not attempted to go through the green channel and the goods were seized as soon as the Appellant entered into the Customs area; The Appellant is an innocent person and she has committed/perpetrated this act of non-declaration before the Customs authorities because she did not feel the need as the said gold jewelry was carried from India for a wedding and brought back the same to India since those were her own jewelry and cannot be construed as smuggling; The Goldsmith who conducted the evaluation of the jewelry has clearly stated that the entire jewelry seized were of 22-carat purity which is unfit for smuggling. In addition no report was given by the said Goldsmith to customs with regard to foreign markings since the question does not arise. The Applicant humbly submits that the confiscation of the garments which she was wearing is without any authority of law besides their act in this regard affected her modesty as a woman.

5.4 The Applicant cited case laws in her favour and in view of the above proceedings in question may be set aside and orders issued to for the redemption of the gold and set aside the personal penalty and thus render justice.

6. A personal hearing in the case was held in the case on 22.01.2020 the Advocate of the Applicant attended the hearing and re-iterated the submissions made in the Revision Application and in his written submissions stated that it was personal jewelry and not dutiable and prayed for release on redemption fine and reduced penalty.



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(A.S.) 15/01/2020



7. The facts of the case state that the gold worn by the Applicant was coated with copper. This is an obvious attempt to hoodwink the Customs authorities and to smuggle the gold into India. The modus operandi was meticulously planned and indicates mensrea. Further, the concealment was ingenious. The Applicant showed no intention of declaring the gold and pay Customs duty. In the grounds of their Revision Application the Applicant has stated that she had taken jewelry from India to attend a wedding in Kuala Lumpur. However the Government notes that part of the jewelry worn by her was coated with copper. The absurdity of this action is not congruent to her statement and appears to be an afterthought in order to secure release of the gold. The Applicant has also not produced any documents for licit possession of the gold. In her first statement recorded on 28.02.2015 she has stated that her earnings, including that of her husbands is Rs. 7500/- per month and neither she nor her husband have a PAN card. Being of such modest means it is therefore quite surprising that she has been found to be in possession of Gold worth 30 lacs. As per her statement dated 28.02.2015, the gold alongwith the undergarment was given to her by one person Yusuf at the Airport in Kuala Lumpur for monetary consideration appears to be closer to the truth. The Government also holds that Commissioner (Appeals) has rightly upheld the order of the original adjudicating authority. The Revision Application is therefore liable to be dismissed.

8. The Government therefore finds no reason to interfere with the Order-in-Appeal. The Appellate order C. Cus. No. 250/2016 dated 28.06.2016 passed by the Commissioner of Customs (Appeals), is upheld as legal and proper.

9. Revision Application is dismissed.

10. So, ordered.



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

ATTESTED

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

ORDER No. 85/2020-CUS (SZ) /ASRA/~~MUMBAI~~

DATED 23.06.2020

To,

Smt. Ameena Begum,
W/o Abdulla,
No. 1/90, Middle Street,
Karadarndhakudi,
Paramakudi Taluk,
Tamil Nadu 623 705.

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.

