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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. 373/27-28/B/15-RA / 3432

Date of Issue 20.02.2020

ORDER NO. ~~87-88/2020~~ CUS (SZ)/ASRA/MUMBAI DATED 24.06.2020 OF THE GOVERNMENT OF INDIA PASSED BY SHRI SEEMA ARORA, PRINCIPAL COMMISSIONER & EX-OFFICIO ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA, UNDER SECTION 129DD OF THE CUSTOMS ACT, 1962.

Applicant : Shri MohideenGani
: Shri MydeenJafarulla Khan

Respondent : Commissioner of Customs, Goa.

Subject : Revision Application filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal No. C.CUS No. 1672 dated 11.09.2014 & 1730 dated 25.09.2014 passed by the Commissioner of Customs (Appeals), Chennai.



ORDER

This revision application has been filed by Shri Mohideen Gani and Shri Mydeen Jafarulla Khan (herein referred to as Applicants) against the order C.CUS No. 1672 dated 11.09.2014 & 1730 dated 25.09.2014 passed by the Commissioner of Customs (Appeals), Chennai. As the facts of the case are identical both these Revision Applications are being decided together.

2. Briefly stated facts of the case are that the Officers of Customs intercepted the applicants, who had arrived from Singapore on 10.10.2013. Apart from electronic items, the examination of their baggage resulted in the recovery of two Iona mini rice cookers each carried by both the Applicants. Noticing the rice cookers to be unusually heavy the officers opened the bottom and recovered one gold bar weighing 100 gms each from each of the rice cookers brought by Shri Mohideen Gani. Similarly the bottom of the two rice cookers brought by Shri Mydeen Jafarulla Khan were also examined and this led to the recovery of one gold bar weighing 100 gms each from each of the rice cookers. The two gold bars recovered from each of the applicants, totally weighed 200 grams and were valued at Rs. 5,45,436/- (Rupees Five Lakhs Forty Five thousand and Four hundred and thirty six).

3. The Original Adjudicating Authority, vide order No. 1191/2013 & 1192/2013 both dated 12.02.2014 allowed the electronic items to be redeemed and absolutely confiscated the gold mentioned above under the provisions of the Customs Act, 1962 read with Section 3(3) of the Foreign Trade (Development and Regulation) Act, 1992. A Personal penalty of Rs. 90,000/- and 91,000/- respectively was imposed on Shri Mydeen Jafarulla Khan and Shri Mohideen Gani.

Aggrieved by this order the Applicant filed an appeal with the Commissioner of Customs (Appeals), Chennai who vide order C.CUS No. 1672 dated 11.09.2014 & 1730 dated 25.09.2014 rejected the Appeals of both the Applicants.



5. Aggrieved with the above order the Applicants have both filed these revision applications inter alia on the grounds that; Order of the respondent is against Law, weight of evidence and circumstances and probability of the case in hand; The Revision petitioners were made to sign on some papers, and threatened with arrest and the appellant being timid natured and not so lettered, had no choice but to do the biddings of the officer in-charge.; The gold they were carrying was bought from savings for the sake of his sisters /relatives wedding. The applicants denies that they had willfully concealed any gold and stealthily smuggled the same in India.; The appellant / Revision petitioner further state that he was all along under the control of the officer of customs and were at the red channels and had not passed through the green channel. The applicants states that they are not repeat offenders and had disclosed the gold and clearly explained the purpose for which it was brought.

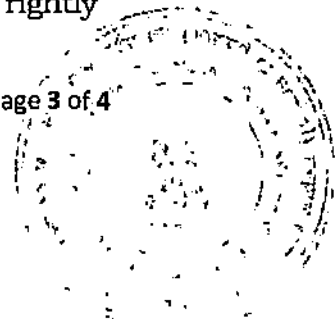
The Revision Applicants prayed that the Hon'ble Revision Authority may please set aside the impugned orders and allow re-export of the gold and reduce the penalty imposed on the Applicants and thus render justice.

6. Personal hearings in the case were scheduled to be held on 03.10.2019, 07.11.2019 and 20.11.2019. Nobody from the department or the Applicant attended the said hearings the case is therefore being decided on merits ex-parte.

7. The Government has gone through the case records and the facts of the case, The gold was not declared as required under section 77 of the Customs Act, 1962. The gold was recovered only after the baggage of the Applicants was subjected to a search; the gold was ingeniously concealed in the bottom of the rice cookers brought as baggage by the applicants and was discovered only after the officers opened the rice cookers, therefore the allegation of ingenious concealment is proved. It is clear that the Applicants had no intention of declaring the gold. Had they not been intercepted the gold would have escaped payment of customs duty. In view of the above facts, the Government is of the opinion that the adjudicating and the Appellate authority has rightly



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confiscated the gold absolutely. The Government therefore is not inclined to accede to the Applicant's request for release of the gold on redemption fine and penalty. The impugned gold is therefore liable for absolute confiscation.

8. The facts of the case do not warrant any interference by the Government, the seized gold is liable for absolute confiscation under Section 111 of Customs Act, 1962 and the Applicant liable for penal action under section 112 (a) of the Customs Act, 1962. The Government therefore holds that the Appellate authority has rightly upheld the order of the Original Adjudicating Authority in confiscating the gold absolutely and imposing penalty. The Revision Applications are therefore liable to be dismissed.

9. The Government therefore dismisses the impugned Revision Applications and upholds the impugned Appellate orders.

10. So, ordered.

(SEEMA ARORA)

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

ORDER No. ⁸⁷⁻⁸⁸ /2020-CUS (SZ) /ASRA/mum~~20~~²⁰ DATED 24.06.2020

To,

1. Shri Mohideen Gani, 11 Azad Road, Pudur Post, Llangdi, Remnad.
2. Shri Mydeen Jafarullah Khan, 17, Irusappan Street, Royapettah, Chennai 600 014.

Copy to:

1. The Commissioner of Customs, Custom House, Rajaji Salai, Chennai.
2. Shri K. Shankar, Shri N. Srinivasan, and Shri T. Senthil Nathan, Advocates, New 257, Old No. 126, Jaffyrallah Towers, 5th Floor, Angappa Naicken Steet, Chennai 600 001.

3. Sr. P.S. to AS (RA), Mumbai.

4. Guard File.

5. Spare Copy.

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

