



GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE)

8th Floor, World Trade Centre, Centre – I, Cuffe Parade,

Mumbai-400 005

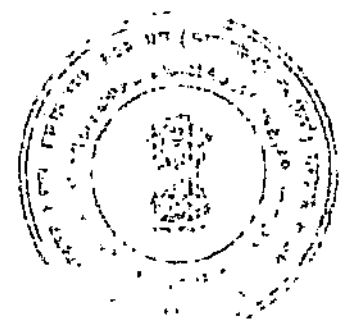
F.No.371/17/B/17-RA/3287 Date of Issue 28.07.2020

ORDER NO. 90/2020-CUS (WZ) / ASRA / MUMBAI/ DATED 24.06.2020 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 Kamal Kishore Saini

Respondent : Principal Commissioner of Customs (Airport), Mumbai.

Subject : Revision Application filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal No. MUM- CUSTM-PAX-APP-691/16-17 Dated 10.03.2017 passed by the Commissioner of Customs (Appeals), Mumbai
- III.



ORDER

This revision application has been filed by Shri Kamal Kishore Saini, (herein referred to as Applicant) against the Order in Appeal No. MUM-CUSTOM-PAX-APP--691/16-17 Dated 10.03.2017 passed by the Commissioner of Customs (Appeals), Mumbai-III.

2. On 03.07.2014 the Applicant arrived at the CSI Airport from Dubai. He was intercepted by the Officers of AIU after he had crossed the green channel. Examination of his person resulted in the recovery of a gold bar and 10 gold coins from the right pocket of the pants worn by him. The gold totally weighing 1080 gms and valued at Rs.27,76,978/- (Rupees Twenty seven lacs Seventy six thousand Nine hundred and Seventy eight).

3. After due process of the law vide Order-In-Original No. JC/RR/ADJN/255/2014-15 dated 08.02.2015 the Original Adjudicating Authority ordered confiscation of the gold under Section 111 (d) (l) and (m) of the Customs Act, 1962 and allowed redemption on payment of Rs. 5,00,000/- (Rupees Five Lacs) under section 125 of the Customs Act,1962 and imposed penalty of Rs. 2,75,000/- (Rupees Two Lacs Seventy five thousand) under Section 112 (a) of the Customs Act,1962.

4. Aggrieved by the said order, the respondent filed appeal before the Commissioner (Appeals) who vide Order-In-Appeal MUM-CUSTOM-PAX-APP---691/16-17 Dated 10.03.2017, observed that the redemption fine and the penalty imposed to be appropriate and rejected the appeal of the respondent.

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

1. The Applicant is a Non-resident Indian.
2. The Applicant is eligible to import 1 Kg. of Gold



3. The Applicant did not declare the said goods; which offence, if any, is a technical violation.

4. The Goods brought in by the Applicant were not concealed.

5. The offence, if any, committed by the Applicant is for the first time committed by him.

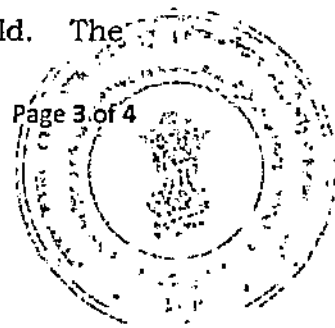
6. The Maximum benefit which Applicant would have got by non-declaration of the goods is around 10% (i.e. Rs.2,66,488/-) of the value of goods, while he has been imposed the Redemption fine of Rs.5,00,000/- and Personal Penalty of Rs.2,75,000/- which is on very higher side.

5.2 The Revision Applicant prayed for reduction of redemption fine and penalty.

6. A personal hearing in the case was held on 12.12.2019. Shri N. J. Heera, Advocate for the Applicant attended the hearing, he re-iterated the submissions filed in Revision Application and re-iterated that the Applicant is an eligible passenger, having come to India after six months. He pleaded for reduction of redemption fine and penalty.

7. The Government has gone through the facts of the case. A proper written declaration of the impugned goods was not made by the Applicant as required under Section 77 of the Customs Act, 1962 and the Applicant preferred to use the facility of the green channel inspite of having dutiable goods, under the circumstances confiscation of the goods are justified.

8. The facts of the case state that gold was recovered from the Applicants pant pockets and it was not ingeniously concealed. Import of gold is restricted not prohibited. The Applicant is an Non resident Indian and has come to India after six months and is eligible for concessional duty, Government observes that one of the conditions for availing concessional duty is declaration of the gold. The




Original Adjudicating authority has taken cognizance of the above facts, and rightly allowed redemption of the gold. The redemption fine of Rs. 5,00,000/- under section 125 of the Customs Act,1962 and the penalty of Rs. 2,75,000/- under section 112(a) of the Customs Act,1962 is also appropriate on gold valued at Rs. 27,76,978/- (Rupees Twenty seven lacs Seventy six thousand Nine hundred and Seventy eight).Government also notes that the Appellate authority has rightly upheld the order of the lower authority.

9. Under the circumstances the Government observes that the impugned orders do not warrant any interference and the Revision Application is liable to be rejected.

10. The Revision Application is therefore rejected.

12. So, ordered.


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

ORDER No. 90/2020-CUS (WZ) /ASRA/MUMBAI

DATED 24.06.2020

To,

1. The Principal Commissioner of Customs (Airport),
Chatrapati Shivaji International Airport, Terminal -2, Mumbai.
2. Shri Kamal Kishore Saini VPO Dayalpura, Thane Moulasar, Nagaur
Rajasthan.

Copy to:

1. The Commissioner of Customs (Appeals), Mumbai-III.
2. Shri N. J. Heera, Advocate,
Nulwala Building,41, Mint Road, Fort, Mumbai - 400 001.
3. Sr. P.S. to AS (RA), Mumbai.
4. Guard File.
5. Spare Copy.

ATTESTED


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

