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**F.No. 372/7/B/13-RA
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)**

14, HUDCO VISHALA BLDG., B WING
6th FLOOR, BHIKAJI CAMA PLACE,
NEW DELHI-110 066

Date of Issue.. 23/4/14

Order No. 95/14-cus dated 21.04.2014 of the Government of India, passed by Shri D. P. Singh, Joint Secretary to the Government of India, under section 129DD of the Custom Act, 1962.

Subject : Revision Application filed,
under section 129 DD of the Customs Act
1962 against the Order-in-Appeal No.
17/Cus (Baggage) Kol/2012 dated 28-12-2012
passed by the Commissioner of Customs (Appeals),
Custom House, Kolkata.

Applicant : Shri Bablu Mahato
C/o Shri Punam Chand Jain, Consultant
64, Burtolla Street, Kolkata-700007.

Respondent : Commissioner of Customs,
Custom House, Kolkata.

ORDER

This revision application is filed by applicant Shri Bablu Mahato C/o Shri Punam Chand Jain, Consultant 64, Burtolla Street, Kolkata against the Order-in-Appeal No. 17/Cus (Baggage) Kol/2012 dated 28-12-2012 passed by the Commissioner of Customs (Appeals), Kolkata with respect to Order-in-Original No. 351/2012 (AIU) dated 24/04/2012 passed by the Assistant Commissioner of Customs (AP) Airport, Kolkata.

2. Brief facts of the case are that the applicant arrived from Bangkok on 24-04-2012 at N.S.C.B.I Airport by flight No. TG-313. On arrival he opted for Red Channel. On examination of his baggage, the goods, as per A.S.A No. 351/12 dt. 24-04-2012 i.e. (1) 350 pieces of Jeans Pant, valued at Rs. 52500/- (2) 280 pieces of Jeans Frock, valued at Rs. 19600/- (3) 250 pieces of Bed Sheet valued at Rs. 17500/ (4) 100 pieces of Ladies Bag, valued at Rs. 5000/- (5) 200 pieces of Ladies shoe, value at Rs. 12000/- and (6) 02 Dinner Set, valued at Rs. 5000/- total goods worth of Rs. 1,11,600/- were found. As the goods are commercial in nature and were not bonafide baggage and imported in violation of provisions of the Customs Act, 1962, Foreign Trade Policy 2009-14, the passenger was informed about the same and a personal hearing was granted and he was heard. The Assistant Commissioner (Adjudicating Authority) held the impugned baggage as non bonafide and commercial in nature and confiscated the goods for Foreign Trade Policy (FTP) and Baggage Rules violations and allowed to redeem the same on payment of fine of Rs. 40000/- and also imposed a personal penalty of Rs. 20000/-. The applicant cleared the goods on payment of the appropriate duty, fine and penalty, amounting to Rs. 1,00,232/- under baggage receipt No. 045 dated 24-04-2012.

3. Being aggrieved by the said order-in-original, applicant filed appeal before Commissioner (Appeals), who modified the impugned Order-in-Original and reduced the redemption fine and personal penalty to Rs. 25000/- and Rs. 15000/- respectively.

4. Being aggrieved by the impugned Order-in-Appeal, the applicant has filed this revision application under Section 129 DD of Customs Act, 1962 before Central Government mainly on the following grounds:

4.1 The provision of Baggage Rules 1998, the applicant entitled to get full free allowance which has been denied to e. Grant full free allowance on item No. 6 as per Baggage Rule.

4.2 The adjudicating officer over valued the goods which is wrong and too much. The valuation done is wrong and baseless i.e. without any proper valuation method. Therefore revalue item No. 1 @ Rs. 100 per piece i.e. as per contemporary assessment/current valuation Rule.

4.3 The goods contained in the baggage are not prohibited nor restricted items. The import of such items is permissible under the provision of B.R 1998. The adjudicating authority has wrongly ordered for confiscation of the goods. That after allowing item No. 6 under F/A and revalue item No. 1 the confiscation value comes to Rs. 89100/- only. On the goods of value Rs. 89100/- consequently the imposition of redemption fine of Rs. 25000/- is not legally correct. It may be reduced to a reasonable amount.

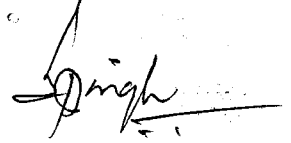
4.4 The goods are not prohibited nor restricted and the applicant have made a bonafide declaration to this effect under section 77 of this Customs Act, 1962 the imposition of heavy penalty of Rs. 15000/- may kindly be reduced to a reasonable amount.

4.5 Under the facts and circumstances of the case the applicant pray to your good self kindly look into the matter sympathetically and allow item No. 6 as per Normal Baggage Rule after granting full free allowance revalue item No. 1, redemption fine of Rs. 25000/- and penalty of Rs. 15000/- imposed on the goods of value Rs. 89100/- should be reduced to a reasonable amount.

5. Personal hearing scheduled in this case 28-03-2014 at Kolkata was attended by Shri Punam Chand Jain, Consultant on behalf of the applicant who reiterated the grounds of Revision Application.
6. Government has carefully gone through the relevant case records and perused the impugned Order-in-Original and Order-in-Appeal.
7. On perusal of records, Government observes that applicant passenger had imported the goods in commercial quantity and same were not treated as bonafide baggage in terms of section 79 of Customs Act. As such goods were confiscated under section 111 but allowed to redeemed on payment of redemption fine in lieu of confiscation under section 125 *ibid*. Personal penalty was also imposed under section 112 *ibid*.
8. Applicant has mainly contended that goods are overvalued by customs and same should be revalued. Two dinner sets valuing Rs. 5000/- may be allowed duty free clearance under free baggage allowance, as the same cannot be considered in trade quantity. Government notes that applicant passenger had on arrival at Airport reported at red channel of Customs. So there is no charge of mis-declaration of goods. Applicant has not submitted any documentary evidence in support of his contention that goods are overvalued. So the contention regarding overvaluation is not acceptable. However, the 2 dinner sets valuing Rs. 5000/- cannot treated in commercial quantity and are to be treated as bonafide baggage and therefore these 2 dinner sets valuing Rs. 5000/- may be allowed clearance under duty free baggage allowance as per his entitlement under Baggage Rules.
9. Regarding pleadings of applicant for reduction of redemption fine and personal penalty, Government notes that 2 dinner sets are allowed in free allowance and therefore the redemption fine and personal penalty is revised proportionately to Rs. 20000/- and Rs. 10000/- respectively. The impugned Order-in-Appeal is modified to this extent.

10. The revision application is disposed off in terms of above.

11. So, ordered.



(D.P. Singh)

Joint Secretary to the Govt. of India

Shri Bablu Mahato
C/o Shri Punam Chand Jain, Consultant
64, Burtolla Street, Kolkata-700007.

ATTESTED

Order No. 95 /14-Cus Dated 21-04, 2014

Copy to:

1. The Commissioner of Customs, 15/1 Strand Road, Custom House, Kolkata-700001.
2. The Commissioner of Customs (Appeals), 15/1 Strand Road, Custom House, Kolkata 700001.
3. The Assistant Commissioner of Customs (Airport), NSCBI Airport, Custom House, Kolkata.
4. Shri Bablu Mahato, 206, Sukanta Colony, P.O. Debhog, P.S. Bhatampur, Distt: Purba, Medinipur-721657.
- ✓ 5. PS to JS(RA)
6. Guard File.
7. Spare Copy

ATTESTED



(Nirmal Devi)

Section Officer (REVISION APPLICATION)

(निर्मला देवी/NIRMALA DEVI)
अनुभाग अधिकारी/Section Officer
वित्त मंत्रालय (राजस्व विभाग)
Ministry of Finance (Deptt. of Rev.)
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi