

REGISTEREDSPEED POST

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE)

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Mumbai-400 005

F.No. 380/23/B/16-RA / 9284

Date of Issue 05/12/2018

ORDER NO. 999/2018-CUS (SZ) / ASRA / MUMBAI/ DATED 30.11.2018  
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 : Principal Commissioner of Customs (Airport), Chennai

Respondent : Shri Mohamed Matin Kachchi

Subject : Revision Application filed, under Section 129DD of the  
Customs Act, 1962 against the Order-in-Appeal No.  
606/2015 dated 30.09.2015 passed by the  
Commissioner of Customs (Appeals), Chennai.



ORDER

This revision application has been filed by Commissioner of Customs, Chennai. (herein referred to as Applicant) against the Order in Appeal No. 606/2015 dated 30.09.2015 passed by the Commissioner of Customs (Appeals) Chennai.

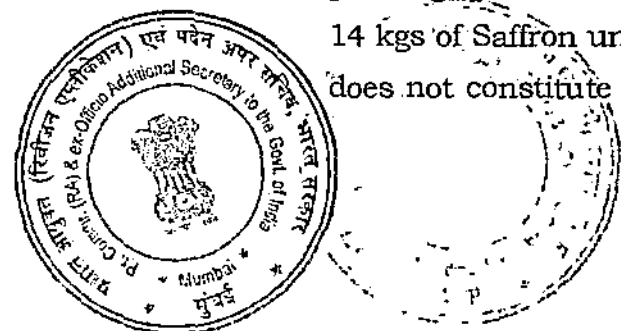
2. Briefly stated the facts of the case is that the Respondent, arrived at the CSI Airport on 21.01.2015. He was intercepted as he was attempting to cross the green channel, and examination of his baggage resulted in the recovery of 28 silver coloured polythene bags containing 14000 grams of Saffron of Iran origin valued at Rs. 14,00,000/- ( Rupees Fourteen lakhs ).

3. After due process of the law vide Order-In-Original No. 53/2015-16 AIRPORT dated 30.04.2015 the Original Adjudicating Authority ordered confiscation of the goods under Section 111 (d) (1) (m) and (o) of the Customs Act, 1962, but allowed redemption of the goods for re-export with an option to pay 36.05 % customs duty if opted for home consumption, on payment of redemption fine of Rs. 3,00,000/- and imposed penalty of Rs. 1,00,000/- under Section 112 (a) of the Customs Act, 1962.

4. Aggrieved by the said order, the department filed an appeal before the Commissioner (Appeals) who vide Order-In-Appeal No. 606/2015 dated 30.09.2015 rejected the Appeal of the Department.

5. Aggrieved with the above order the Applicant have filed this revision application interalia on the grounds that;

5.1 The respondent did not declare the goods as required contravened the section 77 of the Customs Act, 1962 and has therefore contravened the provisions of the Customs Act, 1962; The passenger had attempted to smuggle the goods by way of non declaration knowing well that he was committing an offence and thus had a culpable mind to smuggle them into India without payment of duty; The order of the Commissioner (Appeals) in granting redemption and re-export overlooks the fact that the passenger had contravened the provisions of the Customs Act, 1962. The 14 kgs of Saffron under import is in commercial quantity and definitely does not constitute part of bonafide baggage; Non-bonafide baggage is



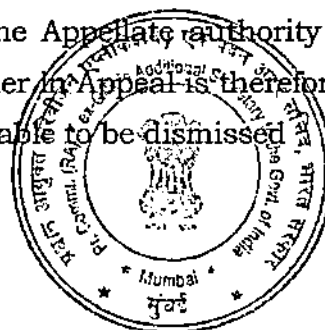
treated as prohibited goods as per section 11 of the Customs Act, 1962; Re-export of the gold is covered vide section 80 of the Customs Act, 1962, and is mandated only when a true declaration is made vide section 77 of the Customs Act, 1962. In this case the Respondent has not made any declaration and therefore the order for re-export is not in order; The orders of the lower authorities has the effect of making smuggling an attractive proposition, since the passenger retains the benefit of redeeming the offending goods at lower redemption fine.

5.2 The Revision Applicant cited decisions in favor of their case and prayed for setting aside the order of the Appellate authority or any such order as deemed fit.

6. In view of the above, the Respondent and his Advocate was called upon to show cause as to why the order in Appeal should be annulled or modified as deemed fit, and accordingly a personal hearing in the case was scheduled on 27.08.2018, 17.09.2018 and 26.09.2018. However, neither the Respondent nor his advocate attended the said hearing. The case is therefore being decided exparte on merits.

7. Government has gone through the facts of the case, the respondent had attempted to import the saffron without declaration and therefore confiscation of the same is justified and upheld.

8. However, the facts of the case state that the Respondent had not yet cleared the Green Channel. The goods were recovered from the baggage of the Respondent, and there is no allegation that it was ingeniously concealed. Import of saffron is not prohibited. There is no reference of any previous offence registered against the respondent. Further, there are a catena of judgments which align with the view that the discretionary powers vested with the lower authorities under section 125(1) of the Customs Act, 1962 have to be exercised in regard to goods that are not strictly prohibited. The Government therefore is inclined to agree with the Order-in-Appeal in allowing the goods for re-export / home consumption on payment of applicable custom duty, on redemption fine and penalty. The Appellate authority has rightly rejected the departmental Appeal. The Order in Appeal is therefore require to be upheld and the revision application is liable to be dismissed.



9. Revision Application is accordingly dismissed. The impugned order in Appeal and the impugned order in original are upheld as legal and proper.

10. So, ordered.

*(Handwritten Signature)*

(ASHOK KUMAR MEHTA)

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

ORDER No. <sup>999</sup>/2018-CUS (SZ) /ASRA/MUMBAI

DATED 30.11.2018

To,

1. The Principal Commissioner of Customs (Airport),  
New Custom House,  
Menambakkam Road,  
Chennai-27.
2. Shri Mohamed Matin Kachchi  
Dadi Colony, Amrut Nagar,  
Alied Housing Complex,  
Flat No. 403,  
Mumbai 400 612.

Copy to:

1. The Commissioner of Customs (Appeals), Chennai
2. Sr. P.S. to AS (RA), Mumbai.
3. Guard File.
4. Spare Copy.

**ATTESTED**

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

