

REGISTERED  
SPEED POST



F.No. 375/37/B/15-RA  
GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(DEPARTMENT OF REVENUE)

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

Date of Issue... 13.10.17

Order No. 18/17-Cus dated 12-10-2017 of the Government of India passed by Shri R.P.Sharma, Principal Commissioner & Additional 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.ASR-CUS-PVR-APP/86/2015 dated 23.06.2015 passed by the Commissioner of Customs (Appeals), Chandigarh

Applicant : Mr. Rizwan Ahmed, Kanpur

Respondent : Commissioner of Customs, Chandigarh

\*\*\*\*\*

**ORDER**

A Revision Application No. 375/37/B/15-RA dated 11.08.15 has been filed by Mr. Rizwan Ahmed, Kanpur (hereinafter referred to as the applicant) against the Order No.ASR-CUS-PVR-APP/86/2015 dated 23.06.2015, issued by the Commissioner of Customs (Appeals), Chandigarh, who has upheld the order of the Superintendent of Customs, LCS, Attari Rail, confiscating the old and used inter-locking machines valued at Rs.36,000/-

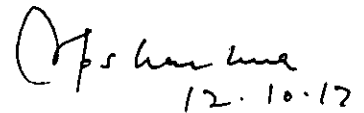
2. A personal hearing was held on 11.10.17 and Shri Ravinder Kumar Wadhawan, Advocate, appeared on behalf of the applicant. However, no one appeared for the respondent.

3. From the revision application it is evident that the applicant does not dispute the Commissioner (Appeals)'s order regarding confiscation of the interlocking machines which were brought by him from Pakistan in violation of Customs Act and Foreign Trade (Development and Regulation) Act, 1992 and his request is limited to the point that he should be allowed to redeem the goods on payment of duty, redemption fine and penalty etc.

4. On examination of the Commissioner (Appeals)'s order, it is observed that he has ordered for confiscation of interlocking machines on the premise that the goods are prohibited goods for importation purpose. However, he has not cited any legal provision under which the import of interlocking machines are expressly prohibited. Instead he has observed that any goods imported in the baggage beyond what is permitted in the Baggage Rules, 1998 are prohibited goods as defined under Section 2(33) of the Act. But the Government does not agree with his views as prohibition of the goods has to be notified by the Central Government under Section 11 of the Customs Act or any other Law the goods cannot be called as prohibited goods simply because the goods are not covered in the term 'baggage' or are brought by any person in violation of any legal provision or without payment of custom duty. Any goods imported without payment of duty or in violation of any provision of the Customs Act is certainly liable for confiscation under Section 111 of the Customs Act,

but it cannot be accepted that all goods liable for confiscation are prohibited goods. While there is no dispute in this case that the goods brought by the applicant from Pakistan are liable for confiscation because he did not follow proper procedure for import thereof in India and attempted to import the goods without payment of custom duties, it is beyond any doubt that the interlocking machines are not prohibited goods under Customs Act or any other law. The Courts, Tribunal, Commissioner of Customs (Appeals), Delhi, Chandigarh and J.S.(RA) have held in large number of orders that even gold is not prohibited goods. Where gold is not held to be prohibited goods, there is no reason for holding such old and used interlocking machines as prohibited goods which are meant for sewing purpose only and not a threat to Indian economy. In fact the same Commissioner (Appeals), in the case of Mr. Farook Ahmed, has observed in his order No.ASR-CUSTOM-PVR-APP/318/2015 dated 3.3.2015 that gold is not prohibited goods and he allowed the passenger to redeem the goods on payment of fine and penalty etc. Therefore, the Commissioner (Appeals) has taken a totally different stand by upholding absolute confiscation of second hand interlocking machines in this case.

5. Since the goods are not proved to be prohibited goods, the Government allows the applicant to redeem the confiscated goods on payment of redemption fine of Rs.15,000/- and penalty of Rs.5,000/- in compliance of Section 125 of the Customs Act, 1962. Accordingly, the revision application filed by Mr. Rizwan Ahmed is allowed and the Commissioner (Appeals)'s order is modified to the extent as discussed above.

  
12.10.17

(R.P.Sharma)

Additional Secretary to the Government of India

Mr. Rizwan Ahmed  
LIG, 16/11, KDA Colony, Ganga Vihar Jajmay  
Kanpur (U.P.)

Order No. 18/17-Cus dated 12-10-2017

Copy to:

1. Commissioner of Customs (P), Customs House, C.R.Building, The Mall, Amritsar-143001
2. Commissioner of Customs (Appeals), Customs House, Chandigarh
3. Superintendent of Customs, L.C.S. Attari Rail, Distt. Amritsar
4. Shri Ravinder Kumar Wadhawan, Advocate, H.No.70, 2<sup>nd</sup> Floor, Street No.1, Sector-7, Ram Prastha Green Vaishali, Ghaziabad, U.P.
5. PA to AS(RA)
6. Guard File.
7. Spare Copy

ATTESTED

(Debjit Banerjee)  
STO (Revision Application)