

SPEED POST



F. No. 380/11/B/2019-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..03/4/23

Order No. 142/23-Cus dated 03-04-2023 of the Government of India passed by Sh. Sandeep Prakash, Additional Secretary to the Government of India, under Section 129DD of the Customs Act, 1962.

Subject : Revision Application, filed under Section 129 DD of the Customs Act 1962 against the Order-in-Appeal No. 367/2018 dated 16.11.2018, passed by the Commissioner of Customs (Appeals), Bengaluru.

Applicant : The Pr. Commissioner of Customs, Airport & Air Cargo Complex, Bengaluru

Respondent : Sh. Varadaraja Rangaswamy, Bengaluru

3. The instant revision application has been filed, mainly, on the grounds that provisions for confiscation and imposition of redemption fine are not forthcoming from the Order-in-Original; that redemption fine is not significant to deter the passenger from repeating the offence; that no penalty has been imposed under Section 114AA by the original authority; and that the instant case attracts higher penalty under Section 112.

4. Personal hearing in the matter was fixed on 14.03.2023, 21.03.2023 and 28.03.2023. No one appeared for either side nor any request for adjournment has been received. Since sufficient opportunities have been granted, the matter is being taken up for disposal based on available records.

5. The Government has carefully examined the matter. It is observed that Commissioner (Appeals) has rejected the appeal of the department justifying the quantum of redemption fine and penalty imposed by the original authority on the Respondent as being sufficient deterrent against the repeat offences and which wipes out the margin of profit. It is the finding of Commissioner (Appeals) that the "departmental appeal is ambitious as the imported goods are cleared after enhancing the value and imposing RF and fine which is almost 128% [1.4 lakhs to 3.2 lakhs]". Thus, the Commissioner (Appeals) has held that since the value has been enhanced from Rs. 1.4 lakhs to Rs. 3 lakhs and R.F and P.P totalling to Rs. 20,000/- have been imposed, sufficient deterrent has been created. However, the Government finds that there is no mention in the OIO about the declared value. Further, the SCN was not issued in the matter. Therefore, the basis for

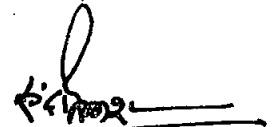
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recording the declared value as Rs. 1.4 lakhs is not forthcoming. The OIO is also silent about the provisions, in terms whereof, the enhanced value has been determined. In this background, the quantification of R.F and P.P also remains unjustified. Further, this being a case of misdeclaration, the penalty under Section 114AA is imposable but the same has not been imposed without disclosing any reasons. Therefore, it would be in the interest of justice that the matter is remanded to the original authority for deciding the case afresh on merits by way of a detailed speaking order, after following the principles of natural justice.

6. The revision application is, accordingly, allowed by way of remand to the original authority, with directions as above.



(Sandeep Prakash)

Additional Secretary to the Government of India

The Pr. Commissioner of Customs,
Airport & Air Cargo Complex,
3rd Floor, AI SATS Cargo Terminal,
Air Cargo Complex, Devanahalli,
Bengaluru-560300.

Order No. 142/23-Cus dated 03-04-2023

Copy to:

1. Sh. Varadaraja Rangaswamy, No. 134, 3rd Cross, 1st Block, Jnanabharati Layout, Mariyappanapalya.
2. The Commissioner of Customs (Appeals), BMTC Building, Above BMTC Bus Stand, Old Airport Road, Domlur, Bengaluru-560071.
3. PA to AS(RA).
4. Guard File.
5. Spare Copy.
6. Notice Board.

ATTESTED



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