

SPEED POST



F. No. 380/135/B/2016-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. 28/2/23

Order No. 69/23-Cus dated 27.02.2023 of the Government of India passed by Shri Sandeep Prakash, 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. 121/2016-TRY(CUS) dated 03.06.2016, passed by the Commissioner of Customs & Central Excise (Appeals-II), Tiruchirapalli.

Applicant : Commissioner of Customs, Tiruchirapalli

Respondent : Sh. Humayun Kabeer, Chennai

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ORDER

Revision Application No. 380/135/B/2016-RA dated 16.08.2016 has been filed by the Commissioner of Customs, Tiruchirapalli (hereinafter referred to as the Applicant department) against the Order-in-Appeal No. 121/2016-TRY(CUS) dated 03.06.2016 passed by the Commissioner of Customs & Central Excise (Appeals-II), Trichy. The Commissioner (Appeals) has modified the order of the Assistant Commissioner of Customs, Airport, Tiruchirapalli, bearing no. 441/2015 dated 01.10.2015, by allowing redemption of 02 gold chains in primary form on redemption fine of Rs. 1,00,000/- and reducing the penalty of Rs. 71,000/- to Rs. 30,000/- imposed under Section 112(a) of the Customs Act, 1962 on Sh. Humayun Kabeer, Chennai (hereinafter referred to as the 'Respondent'). Vide the aforementioned Order-in-Original, 02 gold chains in primary form, totally weighing 100 grams, valued at Rs. 2,40,710/- & foreign origin cigarettes & tobacco valued at Rs. 14,250/- which were recovered from the Respondent, were confiscated absolutely under Section 111(d), (e), (l), (m) & (o) of the Customs Act, 1962 and other goods valued at Rs. 27,060/- recovered from the Respondent were confiscated under Section 111(d), (e), (l), (m) & (o) of the Act, *ibid* but allowed to be redeemed on payment of fine of Rs. 8,500/-. Besides penalty of Rs. 71,000/- was imposed on the Respondent, under Section 112(a) of the Act, *ibid*.

2. Brief facts of the case are that, on 27.09.2015, the Respondent arrived at Trichy airport from Kuala Lumpur. It was found that he had brought gold chains in primary form, totally weighing 100 grams and commercial goods for sale. It was also found that he had not stayed abroad over 06 months period and thus found ineligible to import gold under concessional rate of duty, in his baggage. On enquiry, he, *inter-alia* admitted that he had gone to Malaysia on short visit and brought the above mentioned items for monetary consideration only. During the personal hearing he admitted his role in the case. He had not declared the gold and other goods in his Customs Declaration Form.

3. The revision application has been filed, mainly, on the grounds that the gold brought by the Respondent cannot be his bonafide baggage in as much as he had stayed abroad for only one day and he did not declare the gold in his Indian Customs Declaration

form under Section 77 with the intention to evade Customs Duty; that the Respondent had stayed abroad for only one day and he could not have procured the said gold chains valued at Rs. 2,40,710/- by using his own money earned during such a short period of stay; and that only on repeated enquires the Respondent had admitted possession of the 02 gold chains in his person which is nothing but concealment only.

4. Personal hearing in the matter was fixed on 28.08.2018, 25.09.2018, 28.11.2018, 28.11.2019, 05.12.2019, 06.02.2023 & 27.02.2023. No one appeared for either side on the dates fixed for hearing nor any request for adjournment has been received. However, the Respondent's advocate, vide letter dated 06.02.2023, has stated that the RA filed by the Respondent against the same OIA has already been decided.

5. The Government has carefully examined the matter. It is observed that the Respondent herein had filed Revision Application, bearing no. 373/119/B/16-RA against the Order-in-Appeal impugned herein and the said RA has already been decided by the Revisionary Authority at Mumbai in the year 2018, vide GOI Order bearing no. 643/2018-CUS(SZ)/ASRA/Mumbai dated 27.08.2018. In these circumstances, the instant revision application has been rendered infructuous. The revision application is disposed of, accordingly, without traversing the merits of the case.



(Sandeep Prakash)
Additional Secretary to the Government of India

The Commissioner of Customs, Tiruchirapalli
No. 1, Williams Road
Cantonment, Trichy-620001

Order No. 69/123-Cus, dated 27.2.2023

Copy to:

1. Sh. Humayun Kabeer, S/o Sh. K.M Mohamed Sherief, No. 31A/15, Mufas Khan Garden Street, Maskhan Chavadi, Chennai-600001.

