

F. No. 373/06/B/2019-RA  
F. No. 373/08/B/2019-RA  
F. No. 373/09/B/2018-RA

**SPEED POST**



F. No. 373/06/B/2019-RA  
F. No. 373/08/B/2019-RA  
F. No. 373/09/B/2019-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...05/03/23...

Order No. 211-213/23-Cus dated 05-03-2023 of the Government of India passed by Ms. Shubhagata Kumar, Additional Secretary to the Government of India, under section 129DD of the Custom Act, 1962.

Subject : Revision Applications, filed under Section 129 DD of the Customs Act 1962 against the Order-in-Appeal No. Cus.I 93-95/2018-Air dated 11.10.2018, passed by the Commissioner of Customs (Appeals-I), Chennai

Applicants : Sh. Madhan kumar, Madurai  
Sh. Kannathasan, Madurai  
Smt. Geetha , Madurai

Respondent : The Commissioner of Customs, (Airport & Air Cargo),  
Chennai.

**ORDER**

Revision Application Nos. 373/06/B/2019-RA, 373/08/B/2019-RA & 373/09/B/2019-RA all dated 17.12.2018 have been filed by Sh. Madhan kumar, Sh. Kannathasan and Smt. Geetha, all belonging to Madurai (hereinafter referred to as the Applicant-1, Applicant-2 & Applicant-3, respectively) against the Order-in-Appeal No. Cus.I 93-95/2018-Air dated 11.10.2018, passed by the Commissioner of Customs, (Airport & Air Cargo), Chennai. Vide the above mentioned O-I-A, the Commissioner (Appeals) partially allowed the appeals filed by Applicants against the Order-in-Originals of the Joint Commissioner of Customs, (Adjudication-Air), Chennai Airport & Air Cargo complex, bearing nos.24,25 & 26/2018-19-Commissionerate-I, all dated 05.05.2018.

(i) Vide O-I-O no. 26/2018-19-Commissionerate-I, dated 05.05.2018, Joint Commissioner of Customs, (Adjudication-Air), Chennai Airport & Air Cargo complex ordered absolute confiscation of 1 semi-finished crude gold chain and 1 crude gold kada (both items of 24 carat purity) , collectively weighing 332 grams and collectively valued at Rs.10,20,236/-(MV) recovered from Applicant-1, imposed a penalty of Rs. 1,00,000/- under section 112(a) and imposed a penalty of Rs. 10,000 /- under section 114AA of the Customs Act,1962 on Applicant-1.

(ii) Vide O-I-O no. 25/2018-19-Commissionerate-I, dated 05.05.2018, Joint Commissioner of Customs, (Adjudication-Air), Chennai Airport & Air Cargo complex ordered absolute confiscation of 1 semi-finished crude gold chain and 1 crude gold kada (both items of 24 carat purity) , collectively weighing 282 grams and

collectively valued at Rs. 8,66,586/-(MV) recovered from Applicant-2, imposed a penalty of Rs. 90,000/- under section 112(a) and imposed a penalty of Rs. 10,000/- under section 114AA of the Customs Act,1962 on Applicant-2.

(iii) Vide O-I-O no. 24/2018-19-Commissionerate-I,dated 05.05.2018, Joint Commissioner of Customs, (Adjudication-Air), Chennai Airport & Air Cargo complex ordered absolute confiscation of semi-finished crude gold chain and 8 crude gold kadas (all items of 24 carat purity) , collectively weighing 382 grams and collectively valued at Rs.11,73,886/-(MV) recovered from Applicant-3, imposed a penalty of Rs. 1,20,000/- under section 112(a) and imposed a penalty of Rs. 10,000/- under section 114AA of the Customs Act,1962 on Applicant-3 . However, the Commissioner (Appeals) has set aside the penalty imposed on all the three Applicants under Section 114A of the Customs Act, 1962. Thus, vide the impugned OIA, all the three OIOs were modified to this extent.

2. Brief facts of the case are that the Applicants are a family; Applicant 2 & Applicant3 are husband and wife and Applicant 1 is their son. All three reside at a common address i.e. 47/2, Puttu Thopu Main Road,Thirupathi Complex, Madurai-625001. All three arrived at Anna International Terminal of Chennai airport from Dubai on 20.02.2018 and were found to be in possession of gold in crude form which was concealed in a manner detailed in the table below:-

Sl No.	Applicant	Description of gold (in crude form)	Quantity of the gold smuggled (in gms.)	Value of the gold smuggled (in Rs.)	Type of concealment
1	Applicant 1	1 gold chain and 1gold kada	332	10,20,236/-	Concealed beneath the

					blue coloured shirt worn by him
2	Applicant 2	1 gold chain and 1 gold kada	282	8,66,586/-	Concealed beneath the blue coloured full sleeve closed neck shirt worn by him.
3	Applicant 3	1 gold chain and 8 gold kadas	382	11,73,886/-	Concealed under the black coloured full sleeve sweater worn by her

Details of the Customs proceedings that took place thereafter are enumerated as below.

(i) **RA No.373/06/B/2019:-** After the Applicant had passed the green channel, he was questioned about possession of dutiable goods/gold/gold jewellery either in his baggage or on his person, to which he replied in the negative. Finding his answer unsatisfactory, he along with his baggage was brought to the AIU room for detailed

examination. Before commencing the examination, Applicant was again asked whether he had anything liable to be declared either in his baggage or on his person. The Applicant replied that he had nothing to declare. Thereafter, after explaining to him the provisions of section 102 of the Customs Act, 1962 and obtaining his willingness to be searched on his person and his baggage, Applicant was subjected to a search. During the search of his person, the applicant was found to be wearing one yellow colour metal chain around his neck and one yellow colour metal Kada worn on his left wrist and concealed under the full sleeve blue colour shirt. On suspicion that the yellow coloured metal items found on the person are made of gold, a government certified appraiser was called upon to examine and certify the quality, quantity and value of the items. The appraiser certified the recovered items as gold of 24 karat purity, weighing 332 gms and valued at Rs. 10,20,236/-. As the Applicant was ineligible to import gold in India under Section 79 of the Act *ibid* and the rules made thereunder, and did not possess any valid document/permit for the legal import of the said gold, the recovered gold was seized *vide* Mahazar under section 110 of the Act *ibid*. A voluntary statement under section 108 of the Act *ibid* of the Applicant was recorded immediately after the seizure, wherein, he *inter-alia* admitted that the recovered gold was handed over to him at Dubai by an unknown person with the instruction of giving the same to a person at Chennai after evading detection by Customs. For this job, he was promised Rs.20,000/-. In the same statement, he also admitted that he was well aware that smuggling of gold and non-declaration of the same to customs was an offence and he committed the offence for monetary benefit. Subsequently, during adjudication proceedings, the Applicant claimed the seized gold to be his own, which was purchased by him during tour to Dubai and retracted his statement. His case was adjudicated *vide* O-I-O no. 26/2018-19-Commissionerate-I, dated 05.05.2018, wherein, Joint Commissioner of Customs, (Adjudication-Air), Chennai Airport & Air Cargo complex ordered absolute confiscation of 1 semi-

finished crude gold chain and 1 crude gold kada (both items of 24 carat purity) , collectively weighing 332 grams and collectively valued at Rs.10,20,236/-(MV) recovered from the Applicant, imposed a penalty of Rs. 1,00,000/- under section 112(a) and imposed a penalty of Rs. 10,000 /- under section 114AA of the Customs Act,1962. Aggrieved, Applicant challenged order of the original authority with Commissioner (Appeals) and Commissioner (Appeals) vide the impugned O-I-A modified the O-I-O to the extent that penalty imposed under Section 114 AA was set aside.

**(ii) RA No.373/08/B/2019:** After the Applicant had passed the green channel, he was questioned about possession of dutiable goods/gold/gold jewellery either in his baggage or on his person, to which he replied in the negative. Finding his answer unsatisfactory, he along with his baggage was brought to the AIU room for detailed examination. Before commencing the examination, Applicant was again asked as to whether he had anything liable to be declared either in his baggage or on his person. The Applicant replied that he had nothing to declare. Thereafter, after explaining to him the provisions of section 102 of the Customs Act,1962 and obtaining his willingness to be searched on his person and his baggage, Applicant was subjected to a search. During the search of his person, the applicant was found to be wearing one yellow colour metal chain around his neck and one yellow colour metal Kada , which was concealed around his closed neck full sleeve beneath blue colour shirt. On suspicion that the yellow coloured metal items found on the person of the Applicant were made of gold, a government certified appraiser was called upon to examine and certify the quality, quantity and value of the items. The appraiser certified the recovered items as gold of 24 karat purity, weighing 282 gms and valued at Rs. 8,66,586/-. As the Applicant was ineligible to import gold in India under Section 79 of the Act *ibid* and the rules made thereunder, and did not possess any valid

document/permit for the legal import of the said gold, the recovered gold was seized vide Mahazar under section 110 of the act *ibid*. A voluntary statement under section 108 of the Act *ibid* of the Applicant was recorded immediately after the seizure, wherein, he *inter-alia* admitted that the recovered gold was handed over to him at Dubai by an unknown person with the instruction of giving the same to a person at Chennai after evading detection by Customs. For this job, he was promised Rs.15,000/-. In the same statement, he also admitted that he was well aware that smuggling of gold and non-declaration of the same to customs was an offence and he committed the offence for monetary benefit. Subsequently, during the adjudication proceedings, the Applicant claimed the seized gold to be his own, which was purchased by him during tour to Dubai and retracted his statement. His case was adjudicated vide O-I-O no. 25/2018-19-Commissionerate-I, dated 05.05.2018, wherein, Joint Commissioner of Customs, (Adjudication-Air), Chennai Airport & Air Cargo complex ordered absolute confiscation of 1 semi-finished crude gold chain and 1 crude gold kada (both items of 24 carat purity), collectively weighing 282 grams and collectively valued at Rs. 8,66,586/-(MV) recovered from the Applicant, imposed a penalty of Rs. 1,00,000/- under section 112(a) and imposed a penalty of Rs. 10,000 /- under section 114AA of the Customs Act, 1962. Aggrieved, Applicant challenged order of the original authority with Commissioner (Appeals) and Commissioner (Appeals) vide the impugned O-I-A modified the O-I-O to the extent that penalty imposed under Section 114 AA was set aside.

**(iii) RA No.373/09/B/2019:** After the Applicant had passed the green channel, she was questioned about possession of dutiable goods/gold/gold jewellery either in her baggage or on her person, to which she replied in the negative. Finding her answer unsatisfactory, baggage of the Applicant and she was brought to the AIU room for detailed examination. Before commencing the examination, Applicant was again

asked as to whether she had anything liable to be declared either in her baggage or on her person. The Applicant replied that she had nothing to declare. Thereafter, after explaining to her the provisions of section 102 of the Customs Act, 1962 and obtaining her willingness to be searched on her person and her baggage, Applicant was subjected to a thorough search. During the search of her person, the applicant was found to be wearing one yellow colour metal chain concealed inside the black colour full sleeves woollen sweater worn by her and eight yellow colour metal Kadas, which she was wearing inside the black colour full sleeves woollen sweater. On suspicion that the yellow coloured metal items found on the person of the Applicant were made of gold, a government certified appraiser was called upon to examine and certify the quality, quantity and value of the items. The appraiser certified the recovered items as gold of 24 karat purity, weighing 382 gms and valued at Rs. 11,73,886/-. As the Applicant was ineligible to import gold in India under Section 79 of the Act *ibid* and the rules made thereunder, and did not possess any valid document/permit for the legal import of the said gold, the recovered gold was seized *vide* Mahazar under section 110 of the act *ibid*. A voluntary statement under Section 108 of the Act *ibid* of the Applicant was recorded immediately after the seizure, wherein, she *inter-alia* admitted that the recovered gold was handed over to her at Dubai by an unknown person with the instruction of giving the same to a person at Chennai after evading detection by Customs. For this job, she was promised Rs.15,000/-. In the same statement, she also admitted that she was well aware that smuggling of gold by way of concealment and non-declaration of the same to customs was an offence and she committed the offence for monetary benefit. Besides, she also stated that as the gold does not belong to her, she would not claim the same at a later date and requested for pardon. However, subsequently in the adjudication proceedings, the Applicant claimed the seized gold to be her own, which was purchased by her during tour to Dubai and retracted her statement tendered initially.



Her case was adjudicated vide O-I-O no. 24/2018-19-Commissionerate-I, dated 05.05.2018, wherein, Joint Commissioner of Customs, (Adjudication-Air), Chennai Airport & Air Cargo complex ordered absolute confiscation of 1 semi-finished crude gold chain and 8 crude gold kadas (both items of 24 carat purity), collectively weighing 382 grams and collectively valued at Rs. 11,73,886/-(MV) recovered from the Applicant, imposed a penalty of Rs. 1,20,000/- under section 112(a) and imposed a penalty of Rs. 10,000 /- under section 114AA of the Customs Act, 1962. Aggrieved by this order, Applicant challenged the order of the original authority with Commissioner (Appeals) and Commissioner (Appeals) vide the impugned O-I-A modified the O-I-O to the extent that penalty imposed under Section 114 AA was set aside.

3. The revision applications have been filed, mainly, on the grounds that the Commissioner (Appeals) failed to consider the fact that the Applicants are the owners of the gold recovered from them for which they produced bills; that all the applicants had declared the gold and the same was not concealed but worn by the Applicants. It has been prayed that the seized gold may be released upon redemption fine etc. and penalties imposed may be set aside.

4. Personal hearing in the matter was held in virtual mode on 16.08.2023. Sh. S. Periasamy, Advocate appeared for the Applicants, and sought release of the confiscated gold upon payment of redemption fine and prayed for a lenient view to be taken as the gold was worn on person by the Applicants. He further sought to make written submissions along with the case laws via email on 16.08.2023 itself in support of his arguments. No one appeared for the Respondent department nor has any request for adjournment been received. Hence, it is presumed that the department has nothing to add in the matter.

4.1. Vide email dated 16.08.2023, the Applicants made additional written submissions ,wherein, it was submitted that the Applicants had not concealed the gold by ingenious means but were wearing it, hence, they should be given the option to redeem the confiscated gold on payment of redemption fine. In support, the Applicants relied on Circular issued by the CBEC in F. no. 495/5/92-Cus.VI dated 10.05.1993. It was further submitted that the Applicants have retracted their respective statements given to the Customs officers U/s 108 of the act ibid, had claimed the ownership and produced purchase documents to prove the same; that the gold under seizure is not prohibited goods. It was finally contended that the recovered gold was not in commercial quantity, and hence, should be allowed to be redeemed.

5. The Government has carefully examined the matter. It is observed that gold items of 24 Karat purity were recovered from the Applicants only upon a body search as it had been worn in a manner that was not easily visible without a body search. It is on record that the applicants denied possession of the impugned gold even when specifically asked by Customs. Thus, the impugned goods were seized under the reasonable belief that these were smuggled goods and therefore under Section 123 of the Act, ibid, the burden of proof that such goods are not smuggled is on the person, from whom goods are recovered. In the present case, the Applicants have failed to produce any evidence that the gold items recovered from them were not smuggled and were their bonafide baggage. The gold items were not declared by the Applicants to the Custom officers, as required under Section 77 of Customs Act, 1962, even though the Applicants were provided the opportunity, not once but twice, to declare possession of dutiable goods/items/gold/gold Jewellery either in their baggage or on their person. All the Applicants denied possession of dutiable goods/gold/gold Jewellery either in their baggage or on their person. The Government observes that

the provisions of Section 102 of the Customs Act, 1962 were duly explained to the Applicants as recorded in the O-I-O dated 05.05.2018 of the original authority. The applicants have contended in their respective revision applications that they had not concealed the gold items in any ingenious manner but had worn them on their person. Accordingly, they ought to have been given the option to redeem the confiscated gold items on payment of redemption fine. The Applicants have relied on Circular issued by the CBEC in F. no. 495/5/92-Cus.VI dated 10.05.1993 in their defence. Relevant part of the circular relied upon is as below:

*“ The option of redemption fine should be given where the adjudication authority is satisfied that there was no concealment of gold in question (for example a piece of gold kept in a medicine bottle will be treated as concealment while a bangle/necklace worn by a passenger may not be considered a concealment , if it was easily visible)”.*

The Government observes that the language of the circular is plain and unambiguous as it says that any ornament worn on the person of the passenger and which could be seen by others may not be treated as concealment. However, such was not in the cases of the Applicants. The gold items recovered may have been worn by the Applicants, but were worn underneath their clothes in a manner that was not easily visible to others. Had they not been intercepted, the Applicants herein, would have moved out of the Customs area with the smuggled gold items clandestinely. This fact along with the denial by all the persons regarding possession of any item dutiable or to be declared to Customs establishes that the impugned gold was brought with a mala-fide intention to evade Customs duty. In this regard, several Hon'ble High Courts have upheld allegations of contravention of Section 77 when the person concerned failed to declare the gold kept by him/her on his body or in the clothes

worn by him/her. In the case of *Commissioner of Customs (Preventive), Lucknow vs. Deepak Bajaj* {2019 (365) ELT 695 (All.)}, the Hon'ble Allahabad High Court has held that the person concerned was required to make a declaration under Section 77 of the Act *ibid* in respect of gold recovered from his jeans, vest, coat and shoes. Similarly, the Hon'ble Delhi High Court has, in the case of *Air Customs vs. Begaim Akynova* {WP (Crl.) 1974/2021}, *vide* judgment dated 03.01.2022, upheld the punishment imposed in a case where the passenger was found carrying gold concealed inside the body around the waist and thigh wherein the department had, *inter-alia*, alleged contravention of Sections 77 & 79 of the Customs Act, 1962.

Thus, the Government is not persuaded by this contention of the Applicants that the gold items recovered from them were not ingeniously concealed and should be allowed to be released on payment of redemption fine.

6. The Applicants have contended that they purchased the impugned gold items recovered from their person at Dubai and had produced purchase documents evidencing ownership and licit acquisition of gold items. On this contention, the Government observes that all the Applicants produced purchase documents of the impugned gold items not at the time of arrival but during the adjudication proceedings conducted before the original authority. At that time, they also undertook to produce mode of payment towards those purchases. However, it is on record, that all the three Applicants failed to abide by this undertaking and thus could not produce mode of payment towards those purchases. It is imperative to note here that had the Applicants purchased the said gold items at Dubai under proper purchase documents, as claimed by the Applicants at a later stage, they should have been in possession of the purchase documents at the time of their interception, which they could have produced before the Customs officials to prove ownership and licit acquisition of gold items recovered from them. To the contrary, during the initial interception, all

the three Applicants in their voluntary statements tendered under Section 108 of the act *ibid* disowned the gold items recovered from their person and stated that the said gold items were handed over to them by some persons at Dubai airport with instructions to hand over the said gold items to some unknown persons, who would come to their house for collecting the same after escaping Customs. Thus, they have in their statement under Section 108 of the act *ibid*, admitted to have committed the offence of smuggling gold items for monetary gain. This raises a serious doubt on the credibility of purchase receipts produced by the Applicants much later, making it seem as an afterthought. Thus the Government is not persuaded by the contention of the Applicants in this regard. The Applicants have, thus, failed to discharge the burden placed on them, in terms of Section 123, of the act *ibid*.

7.1 It is also contended by the authorized representative of the Applicants on behalf of the Applicants that seized gold is not 'prohibited' and the seized gold items were not in commercial quantity. However, the Government observes that this contention of the Applicants has been dealt with in a catena of judgments of Hon'ble Supreme Court. In the case of Sheikh Mohd. Omer vs Collector of Customs, Calcutta & Ors {1971 AIR 293}, the Apex Court has held that for the purpose of Section 111(d) of the Customs Act, 1962, the term *“Any prohibition” means every prohibition. In other words, all types of prohibition. Restriction is one type of prohibition*”. Gold is not allowed to be imported freely in baggage and it is permitted to be imported by a passenger subject to fulfillment of certain conditions. In the present case, it is not even contended that the Applicants fulfilled these conditions. In the case of M/s Om Prakash Bhatia Vs. Commissioner of Customs, Delhi {2003(155) ELT423(SC)}, the Hon'ble Supreme Court has held that *“if the conditions prescribed for import or export of goods are not complied with, it would be considered to be prohibited goods*”. Further, in the case of UOI & Ors vs. M/s

Raj Grow Impex LLP & Ors (2021-TIOL-187-SC-CUS-LB), the Hon'ble Supreme Court has followed the judgments in Sheikh Mohd. Omer (supra) and Om Prakash Bhatia (supra) to hold that *“any restriction on import or export is to an extent a prohibition; and the expression “any prohibition” in Section 111(d) of the Customs Act includes restrictions.”*

7.2 In the case of Malabar Diamond Gallery P. Ltd. Vs ADG, DRI, Chennai [2016(341) ELT65(Mad.)], the Hon'ble Madras High Court (i.e. the jurisdictional High Court) has summarized the position on the issue, specifically in respect of gold, as under:

*“64. Dictum of the Hon'ble Supreme Court and High Courts makes it clear that gold, may not be one of the enumerated goods, as prohibited goods, still, if the conditions for such import are not complied with, then import of gold, would squarely fall under the definition “prohibited goods”, in Section 2 (33) of the Customs Act, 1962----.”*

Hon'ble Madras High Court has held on the same lines in the case of Commissioner of Customs (Air), Chennai-I vs. P. Sinnasamy {2016 (344) ELT 1154 (Mad.)}.

7.3 In view of the above, the contention of the Applicants that the offending goods are not 'prohibited goods', cannot be accepted. Further, the question of quantum in respect of prohibited goods does not arise. Hence, the Government is not persuaded by the contention of the Applicants that the gold brought by them is not in commercial quantity and is their bonafide baggage.

8. The Applicants in their respective RAs have stated that they retracted their statements before the original adjudicating authority. On this contention of the

Applicants, the Government observes that the impugned goods were seized under section 110 of the Act *ibid* in presence of two independent witnesses once the applicants failed to declare the impugned gold, its ownership and licit possession. The entire sequence of events has been recorded in Mahazar drawn on spot. The Applicants were intercepted while they were about to leave the arrival hall of the airport without making any declaration in respect of gold items carried by them. They declined the possession of gold even when they were given ample opportunities to declare as to whether they were in possession of gold or gold jewellery. In their respective statements under Section 108 of the act *ibid* to customs also, the Applicants had admitted the recovery of gold items found on their person and that they intended to clear those goods without payment of Customs duty. These statements are admissible as evidence under the Indian Evidence Act, 1872, as amended. The Government further observes proceedings recorded in the Mahazar in presence of two independent witnesses have not been disputed with any evidence. Therefore, the sequence of events recorded in the Mahazar has to be relied upon. In this light, the contention of the Applicants that the seized gold items belonged to them appears to be an afterthought. Therefore, it is difficult to accept that the statements made by the Applicants during their interception were not voluntary. Reliance is placed upon Hon'ble Supreme Court's judgement, in the case of Surjeet Singh Chhabra vs. UOI {1997 (89) ELT 646 (SC)}, where it was held that confession statement before Customs officer, even though retracted within six days, is an admission and binding.

9. The original authority has denied the release of the offending goods on redemption fine under Section 125 of Customs Act, 1962. It is observed that, in terms of Section 125 of the Customs Act, 1962, the option to release 'prohibited goods', on redemption fine, is discretionary, as held by the Hon'ble Supreme Court in

the case of Garg Woollen Mills (P) Ltd vs. Additional Collector of Customs, New Delhi [1998 (104) E.L.T. 306 (S.C.)]. In the case of Raj Grow Impex (supra), the Hon'ble Supreme Court has held "*that when it comes to discretion, the exercise thereof has to be guided by law; has to be according to the rules of reason and justice; has to be based on relevant considerations.*" Further, in the case of P. Sinnasamy (supra), the Hon'ble Madras High Court has held that "*when discretion is exercised under Section 125 of the Customs Act, 1962, ----- the twin test to be satisfied is "relevance and reason".* In a recent judgement, Hon'ble Delhi High Court vide its order dated 21.08.2023 in W.P. (C) Nos. 8902/2021, 9561/2021, 13131/2022, 531/2022 & 8083/2023 has held that "*The court holds that an infraction of a condition for import of goods would also fall within the ambit of section 2(33) of the act and thus their redemption and release would become subject to the discretionary power of the adjudging officer. For reasons aforesaid, the Court finds no illegality in the individual orders passed by the adjudging officer and which were impugned in these writ petitions*". Thus, the Government observes that in the instant cases, taking into the consideration the conduct of the Applicants at the time of their arrival in India, the original authority has exercised the discretion vested in it diligently and the Commissioner (Appeals) has correctly chosen to not interfere with the discretion exercised by the original authority in not giving the Applicants the option to release 'prohibited goods', on redemption fine.

10. The Commissioner (Appeals) has set aside the penalties imposed on the Applicants under section 114AA of the act ibid herein. In the facts and circumstances of the case, no further relief is merited.



11. In light of the above mentioned facts, order of Commissioner (Appeals) appears to be fair and just, hence, merits no interference.

12. In view of the above, the revision applications are rejected.

*Shubhagata Kumar*  
5/9/23

(Shubhagata Kumar)

Additional Secretary to the Government of India

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S/o Sh. Muthuswamy Krishnan,  
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3. Ms. Geetha,  
W/o Sh. Kannathasan,  
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Order No. 211-213 /23-Cus dated 05-09-2023

Copy to:

1. The Principal Commissioner of Customs, Commissionerate-I, Chennai Airport and Air Cargo Complex, New Custom House, Meenambakkam, Chennai-600027.
2. The Commissioner of Customs (Appeals-I), Chennai Airport & Chennai Air Cargo, 3<sup>rd</sup> Floor, New Custom House, GST Road, Meenambakkam, Chennai-600016.
3. Sh. N. Kathiresan (Advocate), Notary public HIG 13, 870 Feet Road, Anna nagar, Madurai-625020
4. PPS to AS(RA).

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5. Guard File.
6. Spare Copy.
7. Notice Board.

*[Handwritten Signature]*  
06/09/2023

**ATTESTED** Praveen Negi  
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