

REGISTERED
SPEED POST



F.No. 371/65/B/13-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... 14/2/14

Order No. 33/14-cus dated 10.02.2014 of the Government of India, passed by Shri D. P. Singh, Joint 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.
16/2013-14-Air dated 14-06-2013 passed by the
Commissioner of Customs, (Appeals), Mumbai.

Applicant : Mr. Mohammed Anwar,
N.A. Manzil Beach Road,
Nellikunnj, Kasargod,
Kerela-671121.

Respondent : Commissioner of Customs,
5th Floor, Avas Corporate Point,
Makhwana Lane, Andheri Kurla Road,
Behind S.M. Centre, Andheri (E),
Mumbai Zone-400059.

ORDER

This revision application is filed by applicant, Mr. Mohammed Anwar, N.A. Manzil Beach Road, Nellikunnj, Kasargod, Kerela against the Order-in-Appeal No. 16/2013-14-Air dated 14-06-2013 passed by the Commissioner of Customs (Appeals), Mumbai Zone-400059 with respect to Order-in-Original No. 36/2012 dated 06-12-2012 passed by Addl. Commissioner of Customs CSI Airport, Mumbai.

2. Brief facts of the case are that the applicant arrived at CSI Airport, Mumbai from abroad. He was intercepted at exit gate by the officers of Air Intelligence Unit of Customs. On examination of the baggage 6 Kgs of Saffron, Back Barry Mobile Phone, one Nigachi Machine and one world card collectively valued at Rs. 5,30,000/- were recovered. The goods imported by the applicant were commercial in nature. Import of trade goods for commercial purpose does not constitute a part of bonafide baggage in terms of section 79 of Customs Act, 1962 and violates the provisions of Baggage Rules, 1998, section 77,79,11 of Customs Act, 1962, para 2.20 of FTP 2009-20014 and also the provision of section 11 (1) of Foreign Trade (Development and Regulation) Act, 1992. The adjudicating authority after following due process of law confiscated the said goods under section 111 (d) (l) & (m) of Customs Act, 1962. However, an option to redeem the same on payment of redemption fine of Rs. 1,50,000/- was given to the said passenger under section 125 of Customs Act, 1962. A penalty of Rs. 1,00,000/- was also imposed on the said passenger under section 112 of Customs Act, 1962.

3. Being aggrieved by the said order-in-original, applicant filed appeal before Commissioner (Appeals), who dismissed the appeal for now compliance with he conditions under section 129E of the Customs Act, 1962.

4. Being aggrieved by the impugned Order-in-Appeal, the applicant has filed this revision application under Section 129 DD of Customs Act, 1962 before Central Government mainly on the following grounds:

4.1 The applicant imported the said goods, for the first time; that

4.2 The applicant is the owner of the goods;

4.3 that the goods imported are neither restricted nor prohibited;

4.4 The fine and personal penalty imposed on the applicant is very harsh. As the goods disposed off by the department for Rs. 3,25,500/-.

The applicant finally pleaded to reduce redemption fine and personal penalty.

5. Personal hearing was scheduled in this case on 23-12-2013 and 28-01-2014. Shri A.M.Sachwani, Advocate attended hearing on behalf of the applicant who reiterated the grounds of Revision Application.

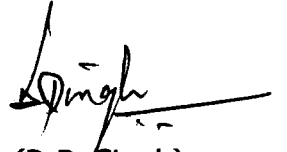
6. Government has carefully gone through the relevant case records and perused the impugned Order-in-Original and Order-in-Appeal.

7. It is observed that import of Saffron in trade quantity by the applicants through baggage mode does not constitute a part of bonafide baggage in terms of section 79 of Customs Act, 1962 and violates the provisions of section 77,79,11 of Customs Act, 1962, para 2.20 of F.T.P 2009-2014 and also the provision of section 11 (1) of Foreign Trade (Development and Regulation) Act, 1992. The adjudicating authority confiscated the said impugned goods under section 111 (d) (l) & (m) of Customs Act, 1962. However, an option to redeem the same on payment of fine of Rs. 1.50 Lakh was given under section 125 of Customs Act, 1962. A penalty of Rs. 1,00,000/- was imposed on the applicants under section 112 of Customs Act, 1962. Commissioner (Appeals) dismissed the appeal as the applicant failed to make pre-deposit of part penalty of Rs. 50,000/- under section 129 E of Customs Act, 1962 as ordered vide interim order dt. 16-04-2013. Now the applicant has submitted in his revision application that the goods have been disposed off by the department for Rs. 3,25,000/- and the sale proceeds is with department, hence order of pre-deposit by the Commissioner (Appeals) may be set aside. The applicant finally pleaded to reduce redemption fine and personal penalty.

8. Government observes that in this case sale proceeds are lying with department and therefore the pre-deposit of penalty amount is reduced to Rs. 10,000/-. The applicant will deposit the said amount within 4 weeks of receipt of this order and on getting confirmation of said deposit the appeal will get restored. Thereafter Commissioner (Appeals) shall decide the appeal on merits in accordance with law. A reasonable opportunity of hearing will be afforded to the parties.

9. Revision Application is disposed off in above terms.

10. So, ordered.

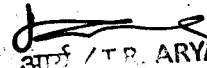


(D.P. Singh)

Joint Secretary to the Govt. of India

Mr. Mohammed Anwar,
N.A. Manzil Beach Road,
Nellikunni, Kasargod,
Kerala-671121.

ATTESTED



(टी. आर. आर्या / T.P. ARYA)
अधीक्षक, आर.ए. / Independent RA
वित्त मंत्रालय (विभाग) (Department)
Ministry of Finance, Govt. of India
भारत / New Delhi

Order No. 33/14-Cx dated 10.2.2014

Copy to:

1. Commissioner of Customs, 5th Floor, Avas Corporate Point, Makhwana Lane, Andheri Kurla Road, Behind S.M. Centre, Andheri (E), Mumbai Zone-400059.
2. The Commissioner of Customs, (Appeals), 5th Floor, Avas Corporate Point, Makhwana Lane, Andheri Kurla Road, Behind S.M. Centre, Andheri (E), Mumbai Zone-400059.
3. Additional Commissioner of Customs, CSI Airport, Mumbai.
4. A.M.Sachwani, Advocate, High Court, Nulwala Building, Ground Floor, 41, Mint Road, Opp. G.P.O, Fort, Mumbai-400 001.

5. PS to JS(RA)

6. Guard File.

7. Spare Copy

ATTESTED



(T.R.Arya)

SUPRINTENDENT (REVISION APPLICATION)