CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, SZB, CHENNAI

REGIONAL BENCH - SM 3 B3

Customs Appeal No. C/41815/2019

(Arising out of Order-in-Appeal No. 192/2019 dated 06.09.2019 passed by the Commissioner of Customs (Appeals-I), Chennai).

Mr. Suresh Rajaram **Appellant**
No. 5, Sekilar Street,
Netaji Avenu,
Nerkundram,
Chennnai-600 107.

Vs.

The Commissioner of Customs (Appeals-I), **Respondent**
No. 60, Rajajisalai,
Chennai-600 001.

APPEARANCE:

Shri K.P.Padmanabhan, Learned Advocate
for the appellant.

Shri M. Jagan Babu, AC, Learned Departmental Representative
for the Respondent

CORAM:

HON'BLE MR P.DINESHA, Judicial Member

FINAL ORDER No. 40781 / 2020

Date of Hearing: **13.02.2020**
Date of Pronouncement: **08.09.2020**

The appellant has by this appeal questioned the rejection of his first appeal vide impugned order-in-Appeal No. 192/2019 dated 06.09.2019, whereby learned Commissioner of Customs (Appeals-I) has upheld the absolute confiscation of six gold bars.

2. When the matter was called out, Shri K.P. Padmanabhan, Learned Advocate appeared for the appellant and reiterated the grounds urged before the lower authorities. He also contended that the so-called voluntary statement of the appellant relied upon by the Revenue was under threat; that the appellant was the only bread winner who had saved some money out of his salary and purchased gold bars in question and that all the supporting bills were produced before the authorities.

3. Per contra, Shri M. Jagan Babu, Assistant Commissioner (AR) appearing for the Revenue supported the findings of the lower authorities. He would also contend that at least two of the invoices issued by GMT Jewellers Pvt. Ltd, Singapore, carried different dates ie., 29/11/2017 and 7/12/2017, which would indicate that two gold bards of 300 gms were purchased after a gap of about 8/9 days. But most interestingly, the invoice numbers are 2017-0122 and 2017-00123 and by this it is very difficult to believe that the seller did not make any sales between 29/11/2017 and 7/12/2017, which fact has not at all been explained anywhere. He would also submit that the appellant upon landing in Chennai Airport, himself opted for green channel and on suspicion he was questioned/searched, which resulted in the detection of smuggled gold bars and the appellant explained that he was carrying the above goods for somebody else. On a

later date, the appellant explained that the above explanation was given out of fear and ignorance and that he had purchased the above gold for the members of his family. By this, the appellant has kept on changing his stand and that too, without any supporting evidence, and hence the orders of the Lower Authorities may be upheld.

4. I have heard both sides and have also carefully considered the rival contentions and documents placed on record.

5. There is no dispute that the appellant tried to smuggle the gold, ie., he tried to bring the above gold bars from Singapore into India without payment of applicable duties and without even declaring the same when he was duty bound to do so. The purchase of the same and the final destination/usage may not be of any significance when such an act of smuggling is carried out, since what is important is primarily the declaration, followed by the payment of applicable duties/taxes. Even though the appellant has pleaded ignorance and co-operation, the same would at best be a mitigating factor which *ipso facto* would not take away the guilt of trying to bring in the goods without payment of duty. Further, the appellant has also pleaded that he was a law abiding citizen but when the law mandates a minimum declaration which has not been complied with here in the case on hand, the above plea of the appellant would also not going to help

the appellant. Moreover, the serious dispute as to the dates on invoices with consecutive numbers is alone an incriminating factor not at all explained by the appellant.

6. In view of the above, I do not find any merit in the appeal and therefore, the appeal is rejected being devoid of merits.

(Order pronounced in the Open Court on **08.09.2020**)

Sd/-

(P.DINESHA)
JUDICIAL MEMBER

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