

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SOUTH REGIONAL BENCH AT HYDERABAD
BENCH - SM
COURT - I**

Application(s) Involved:

C/COD/30026/2018 in C/30075/2018-SM

Appeal(s) Involved:

C/30075/2018-SM

(Arising out of Order-in-Appeal No. HYD-CUS-000-APP-087-
17-18 dated 22/09/2017 passed by Commissioner of
Customs & Central Tax (Appeals-I) Hyderabad)

Virasath Ahmed

Appellant(s)

Versus

**Commissioner of Customs,
Hyderabad -**

Respondent(s)

Appearance:

None for the Appellant.

Mr Guna Ranjan, A.R. for the Respondent.

CORAM:

HON'BLE Mr. P. Venkata Subba Rao, MEMBER (TECHNICAL)

Date of Hearing: 15/05/2018

Date of Decision: 15/05/2018

Final Order No. A/ 30564 / 2018

[Order per: P. Venkata Subba Rao]

There is an application for condonation of delay of 12 days in filing the appeal by the appellant. Perused the records. Since the delay is nominal, I find there is a case to condone it. Accordingly, I condone the delay and take up the appeal for hearing.

2. When this matter was called, nobody appeared on behalf of the appellant. I find from the records that the matter was already adjourned twice before and this is the third hearing. Learned A.R. submits that this is a case of foreign currency being smuggled out of India in the baggage of the appellant. Therefore this is beyond the jurisdiction of the Tribunal in view of the 1st Proviso to Section 129 A of the Customs Act 1962. He relied upon the judgements of the Tribunal in the case of K.K. Thajudeen Vs CC Cochin [2016(343)ELT 548 (Tri-Bang)] and the case of Payangadi Moidu Mohammed Ali Vs Commissioner of Appeals Chennai [2017(350)ELT 543 (Mad)]. I have gone through the records of the case. The appellant was intercepted by DRI for attempting to illegally export foreign currency outside India through Rajiv Gandhi International Airport Hyderabad on 13.04.2016 in his baggage. The currency was seized and the matter was adjudicated by the Addl Commissioner confiscating the foreign currency and imposing penalties on the appellant. Aggrieved, the appellant preferred appeal to Commissioner (Appeals) who vide order-in-appeal No HYD-CUS-000-APP-087-17-18 has upheld the order-in-original and dismissed the appeal. As the matter pertains to attempted export of foreign currency in baggage which is beyond the jurisdiction of the CESTAT in terms of 1st Proviso to Section 129A, the appeal is dismissed.

(Order pronounced and dictated in open court)

P. Venkata Subba Rao
MEMBER (TECHNICAL)

Neela Reddy