



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-07-2026

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THE HON'BLE MR.JUSTICE HEMANT CHANDANGOUDAR

WP No. 24264 of 2022

and

WMP No.23254 of 2022

Naina Mohamed Rifaideen

..Petitioner(s)

Vs

1. The Principal Commissioner (RA) and
Ex-Officio Additional Secretary to the
Government of India,
8th Floor, Centre-1, World Trade Centre,
Cuffe Parade, Mumbai-400 005.

2. The Joint Commissioner of Customs
(Adjudication-Air),
Chennai I Commissionerate,
New Custom House,
Meenambakkam, Chennai-600 027.

..Respondent(s)

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records pertaining to the impugned order No.181/2022-CUS (WZ/SZ)/ ASRA/ MUMBAI dated 17.05.2022 passed by the 1st respondent, quash the same and direct the 2nd respondent to return the foreign currency of 133 notes of EURO 50 denomination seized from the petitioner.

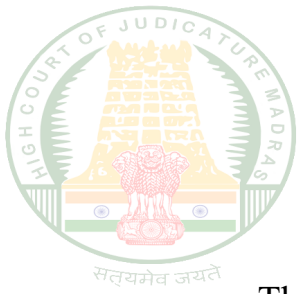
For Petitioner(s):

Mr.Hari Radhakrishnan

For Respondent(s):

Mr.Umesh Rao.K

Senior Standing Counsel for R2



ORDER

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The petitioner challenges the order dated 17.05.2022 passed by the first respondent under Section 129DD of the Customs Act, 1962, whereby the revision petition filed by the petitioner was dismissed, confirming the orders of the adjudicating authority rejecting the petitioner's request for release of the confiscated foreign currency under Section 125 of the Customs Act, 1962.

2. The petitioner was travelling from Chennai to Kuala Lumpur via Colombo on 23.03.2018 by Sri Lankan Airlines. After clearing the immigration counter and while proceeding towards the security check, he was intercepted by the Customs Officers. On being asked whether he was carrying any foreign currency, Indian currency or contraband either on his person or in his baggage, the petitioner replied in the negative. Though no incriminating material was found in his baggage, a personal search resulted in the recovery of 133 Euro currency notes of the denomination of 50 Euros each, concealed in the inner pockets of his trousers. The total value of the foreign currency was equivalent to ₹5,25,682/-.

3. It is not in dispute that the petitioner had neither declared the foreign currency before the Customs authorities nor possessed any valid permission from the Reserve Bank of India for its export. Consequently, the foreign currency was confiscated under Section 113(d), (e) and (h) of the Customs Act, 1962, and a penalty of ₹50,000/- was imposed on the petitioner under Section 114(i) of the Act.



4. Aggrieved by the order of confiscation, the petitioner preferred an appeal, which was dismissed by the appellate authority by order dated 04.01.2019. Thereafter, the petitioner filed a revision petition under Section 129DD of the Customs Act, which also came to be dismissed by the impugned order dated 17.05.2022.

5. Learned counsel for the petitioner submitted that the adjudicating authority ought to have exercised its discretion under Section 125 of the Customs Act by permitting redemption of the confiscated foreign currency on payment of an appropriate redemption fine. It was contended that the petitioner is not a habitual offender, that this was his first violation under the Customs Act, and therefore the discretion under Section 125 ought to have been exercised in his favour. In support of the said contention, reliance was placed on the following decisions:

(i) *Rayavarapu Sri Devi v. The Principal Commissioner of Customs* (W.P. No.6734 of 2022, decided on 19.02.2024);

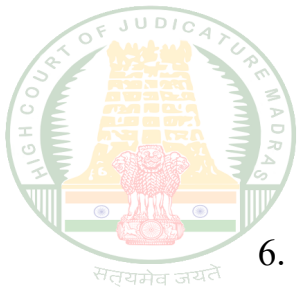
(ii) *Raju Sharma v. Union of India* [2020 (372) ELT 249 (Del.)];

(iii) *Commissioner of Customs v. Rajinder Nirula* [2017 (346) ELT 9 (Bom.)];

(iv) *Additional Director General (Adjudication) v. Its My Name Pvt. Ltd.* [2021 (375) ELT 545 (Del.)];

(v) *Mohd. Ayaz v. Union of India* [2003 (151) ELT 39 (Del.)]; and

(vi) *Sri Gampala Sankara Rao v. Principal Commissioner of Customs, Telangana* [2025 (11) TMI 970].



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6. Per contra, the learned Standing Counsel appearing for the second respondent submitted that the petitioner had attempted to export foreign currency without declaring the same to the Customs authorities and without possessing any valid permission from the Reserve Bank of India. It was further submitted that such currency falls within the definition of “prohibited goods” under Section 2(33) of the Customs Act. Since the petitioner failed to establish the lawful source of the foreign currency, the adjudicating authority rightly exercised its discretion in refusing redemption. Therefore, the impugned order does not call for interference.

7. I have considered the rival submissions and perused the materials placed on record.

8. The revisional authority has observed that the petitioner was carrying a substantial quantity of foreign currency, had failed to establish that it was acquired through lawful channels, had not complied with the statutory requirements for export of foreign currency, and being a frequent traveller, was aware of the legal requirements but nevertheless attempted to carry the currency out of India without declaration.

9. Section 125 of the Customs Act provides for an option to pay redemption fine in lieu of confiscation. In the case of prohibited goods, the adjudicating authority may grant such an option, whereas in the case of other



goods, it shall grant such an option. Thus, the power to permit redemption in the case of prohibited goods is discretionary.

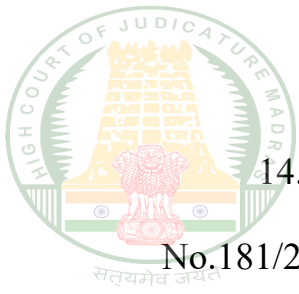
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10. However, such discretion cannot be exercised mechanically merely because the goods fall within the category of prohibited goods. The discretion has to be exercised judiciously, having regard to the facts and circumstances of each case.

11. In the present case, the value of the confiscated foreign currency is ₹5,25,682/-. There is nothing on record to show that the petitioner had previously violated the provisions of the Customs Act. Further, a penalty of ₹50,000/- has already been imposed upon the petitioner, which has also been paid.

12. The second proviso to Section 125 of the Customs Act provides that the redemption fine shall not exceed the market value of the confiscated goods, after deducting the duty payable, wherever applicable.

13. In the decisions relied upon by the petitioner, the Courts have upheld release of confiscated foreign currency on payment of redemption fine, which was generally fixed at about 10% of the value of the confiscated goods. Therefore, while determining the redemption fine, the adjudicating authority shall keep in view the principles laid down in the aforesaid decisions and the limits prescribed under Section 125 of the Customs Act.



14. In the result, the writ petition is disposed of. The impugned Order No.181/2022-CUS (WZ/SZ)/ASRA/Mumbai dated 17.05.2022 is set aside insofar as it rejects the petitioner's request for release of the confiscated foreign currency on payment of redemption fine. Since the penalty has already been paid, the second respondent is directed to determine the redemption fine payable by the petitioner in accordance with Section 125 of the Customs Act and the principles laid down in the decisions referred to above, and thereafter release the confiscated foreign currency to the petitioner on payment of such redemption fine. The entire exercise shall be completed within a period of four (4) weeks from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petition is closed. There shall be no order as to costs.

23-07-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

ssk

To

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HEMANT CHANDANGOUDAR, J.

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