

IN THE HIGH COURT OF BOMBAY AT GOA.

WRIT PETITION NO. 336 OF 2016.

Mr. Edmund Liley

U.K. National, holding passport
No.099168724, permanently residing
at N-3, Marriners Quay, Brighton
Marina Village, BNZ, 5UZ, England,
U.K.

.... Petitioner

V/s

1 The Additional Commissioner of
Customs,
Marmagao, Goa.

2 The Commissioner (Appeals)
Central Excise & Customs &
Service Tax, Goa.

3 The Joint Secretary,
Revision Authority, Ministry of
Finance, Hudco Vishala, 3
Bhikaji Cama Road, New Delhi-
110 006.

... deleted

.... Respondents

Mr. R. Naik, Advocate for the petitioner.

Mr. C. A. Fereira, Advocate for the respondent no.1.

Coram:-F. M. REIS,
NUTAN D. SARDESSAI, JJ.

Date: 29th March, 2016.

ORAL JUDGMENT (Per F. M. REIS, J)

At the request of Mr. R. Naik, learned Counsel
appearing for the petitioner, leave to delete the respondent nos.
2 and 3, at the risk of the petitioner. Amendment to be carried

out forthwith.

2. Heard Mr. R. Naik, learned Counsel appearing for the petitioner and Mr. C. A. Fereira, learned Counsel appearing for the respondent no.1.

3. Rule.

4. Heard forthwith with the consent of the learned Counsel appearing for the petitioner and the learned Counsel appearing for the respondent no.1. Mr. C. A. Ferreira, learned Counsel waives notice on behalf of the respondent no.1.

5. Upon hearing the learned Counsel appearing for the respective parties, the short point which arises for consideration is whether the petitioner can be permitted to redeem the gold in terms of an order dated 13.8.2014 passed by the respondent no. 2, which is assailed before the respondent no.3 by depositing the amounts directed therein.

6. On perusal of the said order, the operative part thereof reads thus:-

“The order-in-Original No.06/2013-ADC dated 16.07.2013 passed by Additional Commissioner of Customs, Marmagao, Goa is modified and the

Appellant is given an option to re-export of the the said gold jewellery on payment of redemption fine of Rs.9,00,000/- under Section 125 of CA, 1962, in lieu of confiscation. The penalties imposed under Section 114 and Section 114AA of CA, 1962 are reduced to Rs.2,00,000/- and Rs.2,50,000/- respectively. The option of re-export of the said gold jewellery shall only be available to the Appellant himself, while departing from India after his next visit.”

7. The learned Counsel appearing for the petitioner submits that though the petitioner has preferred a revision against the said order before the respondent no. 3, nevertheless without prejudice to the rights and contention of such revision petition, the petitioner desires to deposit the fine amount of Rs.9,00,000/- as well as the penalties amount of Rs.2,00,000/- and 2,50,000/- as directed in such order and redeem the gold. The learned Counsel, as such submits that the petitioner shall deposit a total sum of Rs. 13,50,000/- before the respondent no. 1 in order to allow the petitioner to re-export the subject gold jewellery.

8. Mr. C. A. Ferreira, learned counsel appearing for the respondent no.1 has filed an affidavit inter alia contending that

an appropriate order may be passed based on the contentions of the petitioner by safeguarding the interests of the respondent no.1.

9. It is not disputed that besides the amount as determined by order dated 13.8.2014 passed by the respondent no.2, the respondent no.1 has no other claim against the petitioner in connection with the subject gold. As the petitioner is prepared to secure the respondent no.1 by depositing the total amount stipulated in terms of the order dated 13.8.2014 passed by the respondent no.2, we find that there is no reason to refuse the reliefs sought by the petitioner in the above petition.

10. In view of the above, we pass the following order:-

O R D E R

- i. The petitioner is permitted to deposit with the respondent no.1 the total amount stipulated in the order dated 13.8.2014 passed by the respondent no.2, without prejudice to his rights and contentions of both the parties in the revision pending before the respondent no.3.
- ii. Upon deposit of the said total amount of Rs.13,50,000/-, the petitioner is permitted to get the subject gold redeemed to enable him to re-export such gold jewellery.

- iii. Rule is made absolute in the above terms.
- iv. All contentions of both the parties on merits are left open.
- v. Petition stands disposed of.

NUTAN D. SARDESSAI J.

F. M. REIS, J.

vn*