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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 19.08.2019

\+ W.P.(C) 8861/2019

MRS. SHAMIM ..... Petitioner

Through: Mr. N.K. Baksh, Adv.

versus

COMMISSIONER OF CUSTOMS I G I AIRPORT ..... Respondent

Through: Mr. Amit Bansal, Adv. with Mr.Aman Rewaria, Adv.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT

D.N. PATEL, CHIEF JUSTICE (ORAL)

CM APPL.36554/2019 *(Exemption)*

Allowed, subject to all just exceptions.

Application stands disposed of.

W.P.(C) 8861/2019

1. This writ petition has been preferred mainly for the reduction in the amount of penalty, as well as redemption fine imposed by the respondent.

2. We have heard the counsel for petitioner at length and looking into the facts and circumstances of the case, it is an admitted position that 687.2g of gold was recovered from the possession and custody of this petitioner at Indira Gandhi International Airport on 2nd March, 2016.

3. The gold was not declared by the petitioner and she was passing through the green channel at the airport. Thereafter, the gold was confiscated/seized and a show cause notice was given. Order-in-original was passed by the Additional Commissioner of Customs vide order dated 30th September, 2016 (Annexure-D to the memo of this writ petition) whereby penalty was imposed, against which an appeal was preferred. The appeal was dismissed by an order dated 14th August, 2017 (Annexure-C to the memo of this writ petition). Against the order-in-appeal, a revision application was preferred by the petitioner, which was disposed of by reducing penalty to Rs.3,25,000/- and permitting redemption of the gold for which redemption fine was fixed as Rs.8,50,000/-. The total value of gold is, admittedly, Rs.18,90,560/-. The learned counsel for the petitioner prayed that the redemption fine and the penalty amount may be reduced.

4. In the case of seizure of gold, the Supreme Court has held, in ***Commissioner of Customs, Mumbai vs. Mansi Impex 2011 (270) ELT 631 (S.C.)*** that the quantum of redemption fine is dependent on the value of the gold on the date of exercise of option to redeem. Admittedly, the seized gold is worth Rs.18,90,560/-.

5. We find no reason to reduce the redemption fine because looking to the value of the gold, which is Rs.18,90,560/-, the redemption fine cannot be said to be unreasonably excessive. Moreover, there is no illegality pointed out by the petitioner in the imposition of penalty and redemption fine.

6. The writ petition complains that the total amount payable, by adding the duty, penalty and redemption fine, would work out to nearly the value of the gold itself. That, however, cannot justify interference, by us, with the

quantum of redemption fine. Redemption is not compulsory; if the petitioner finds redemption financially inexpedient, it is always open to her not to exercise the said option.

7. We have perused the order passed by the respondent Annexures B, C and D. There is no illegality committed by the respondent in imposing the penalty and redemption fine, or in the quantum thereof. The amount of penalty has already been reduced by the revisional authority from Rs.3,75,000/- (as per order-in-appeal) to Rs.3,25,000/- (as per the order passed by the revisional authority).

8. In view of the aforesaid facts, reasons and judicial pronouncements, we find no reason to entertain this writ petition and we see no reason for further reduction in the penalty amount and redemption fine. Hence, this writ petition is hereby dismissed.

CHIEF JUSTICE

C.HARI SHANKAR, J

AUGUST 19, 2019
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