

	भारतसरकार GOVERNMENT OF INDIA वित्तमंत्रालय (राजस्वविभाग) MINISTRY OF FINANCE (DEPARTMENT OF REVENUE) सीमा-शुल्कउप/सहायकआयुक्तकाकार्यालय OFFICE OF THE DEPUTY/ASSISTANT COMMISSIONER OF CUSTOMS कोयंबटूरअंतर्राष्ट्रीयहवाईअड्डा, पीलामेडु,कोयंबटूर-641014 COIMBATORE INTERNATIONAL AIRPORT,PEELAMEDU,COIMBATORE-641014	
	IS 15700 CERTIFIED COMMISSIONERATE	Phone: 0422- 2580681

GEN/ADJ/Misc/228/2025-AP-CBE

दिनांक/Date:05-05-2025

DR No.294/2024-25

DIN : 20250581OI000000B4A6

मूलआदेशसंख्या Order-in-Original No. 01 /2025-26
[Passed by Shri Arvind Kumar, Superintendent of Customs,
International Airport, Coimbatore]
प्रस्तावना Preamble

1. यह प्रति उन व्यक्तियों के निजी प्रयोग के लिए निःशुल्क दी जाती है जिनको यह जारी किया गया है।

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- 2 . इस आदेश से अपने को व्यथित समझने वाला कोई भी व्यक्ति इस आदेश के विरुद्ध आयुक्त (अपील) नं. 1 विल्लियम्स रोड, तिरुच्चिरापल्ली से अपील कर सकता है।

Any person deeming himself aggrieved by this order may appeal against the order to the Commissioner (Appeals), No.1 Williams Road, Cantonment, Trichy.

- 3 . इस आदेश के पार्टी को सूचित किये जाने की तारीख से 60 दिन के अंदर अपील फाइल की जानी चाहिए और निर्धारित फार्म सी.ए.1 में हो तथा निर्धारित रूप से सत्यापित किया जाए।

The Appeal shall be filed within 60 days from the date on which this order is communicated to the party and in form C.A. 1 and shall be verified in the prescribed manner.

- 4 . इस आदेश के विरुद्ध अपील करने के इच्छुक व्यक्ति अपील निर्णय होने तक मंगाई गई ड्यूटी या जुर्माना के 7.5%जमा कर दें तथा भुगतान का सबूत अपील के साथ प्रस्तुत करें। ऐसा न करने पर, सीमा शुल्क अधिनियम 1962 की धारा 129 ई के उपबंध का अनुपालन नहीं होने के कारण अपील रद्द की जा सकती है।

A person desirous of filing an appeal against the order, pending the appeal, shall

deposit 7.5% of the duty demanded or the penalty levied thereon and produce proof of such payment along with the appeal, failing which the appeal is liable to be rejected for non-compliance of the provisions of Section 129-E of the Customs Act, 1962.

. 5तथ्यों के विवरण, अपील याचना के कारण सहित अपील दो प्रतियों में इस आदेश की प्रति के साथ फाइल किए जाएं।

The appeal including the statement of facts, grounds of appeals, any prayer shall be filed in duplicate and shall be accompanied by a copy of this order.

6. इस आदेश के विरुद्ध अपील करने वाला इच्छुक व्यक्ति 2 रुपये का कोर्ट फीस स्टैप लगाए।

Any person desirous of filing the appeal against this order shall affix a court Fee Stamp for Rs.2.00.

Sub:	Customs – D.R No. 294/2024-25 dated 13.01.2025 - Detention of 13 nos. of old & used laptops totally valued at Rs. . 65,193/- from Shri. Rajesh Kumar on 13.01.2025 at Customs International Airport, Coimbatore under Customs Act, 1962 – Passing of Order-in-Original – Reg.
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Note: The issue of Show Cause Notice was waived at the request of the Passenger.

In terms of Foreign Trade Policy notified by the Government in pursuance to Section 3(1) & 3(2) of the Foreign Trade (Development & Regulation) Act, 1992 read with the Rules framed thereunder and Section 11(2)(u) of Customs Act, 1962, import of 'goods in commercial quantity / goods in the nature of non-bonafide baggage' is not permitted without a valid import license. Further, exemption exists under clause 3(h) of the Foreign Trade (Exemption from application of Rules in certain cases) order 1993 for import of goods by a passenger from abroad is applicable only to the extent of goods admissible under the Baggage Rules framed under Section 79 of the Customs Act, 1962.

02. Import of goods which are non-declared / mis-declared / concealed and which is in commercial quantity and non-bonafide and are in excess of the baggage allowance are liable for confiscation under Section 111(d), (l), (m)& (o) of the Customs Act, 1962 read with Section 3(3) of the Foreign Trade (Development & Regulation) Act, 1992.

FINDINGS

03. On 13.01.2025, the Baggage officers of Coimbatore International Airport intercepted one male passenger by name Shri. Rajesh Kumar, residing Old No. 19, New No. 36, College road, 5th Cross Street, Trippur,

Tamilnadu-641602, holder of Indian Passport No. N465200 (herein after referred to as "The passenger / The Pax") arrived at Coimbatore Airport on 13.01.2025 from Singapore by Flight No. TR-540, while he was crossing green channel, near the exit gate, on information that some passengers were bringing goods in commercial quantity in their baggage or in person without filing Customs Declaration Form (CDF). The officers enquired about the contents /possession of dutiable goods in his baggage. The passenger replied in the negative. Not satisfied with his reply, the Officers explained to him that they are empowered to conduct personal search of him under Section 100 of Customs Act, 1962 and his right to be searched by a Customs Officer after getting permission from a Gazetted officer or from a magistrate under Section 102 of Customs Act, 1962. The Passenger gave his consent to be searched before a Gazetted officer of Customs. Accordingly, personal search was conducted after getting permission from the Gazetted officer of Customs and no dutiable goods was found in person. Further his checked in luggage was taken for detailed examination and 13 nos. of old and used laptops were found & recovered.

04 . The passenger admitted that he had not filed the Customs Declaration Form (CDF) to declare the possession of the above said Electronic item and its value to the Customs officials. The officers found the Electronic items (Laptop) after searching the baggage of the passenger. As the electronic item/ Laptop being a restricted item and the passenger attempted to clear it without payment of duty by not filing Customs Declaration Form, the same was detained under **D.R No.294/2024-25 dated 13.01.2025** for adjudication. The charges were communicated to the passenger orally. The passenger vide his letter dated 13.01.2025 requested for waiver of issue of written SCN and also waiver of personal hearing. I therefore waive the issue of written SCN as desired by the passenger vide his above letter dated 13.01.2025. Notwithstanding the request for waiver of personal hearing by the passenger, I gave two personal hearing opportunities to the passenger on 8.04.2025 and 26.04.2025 but, the passenger did not appear on the said dates. But, suddenly, the passenger appeared for personal hearing on 01.05.2025 and he admitted that he did not possess any licence/registration obtained from BIS in respect of the subject second hand laptops nor did it comply with labelling requirements as per "Electronics and Information technology Goods (Requirement of Compulsory Registration) Order, 2021 read with notification no. 13/2024-25 dated 20.05.2024 issued by DGFT and the passenger requested for re-export of said second hand and used laptops.

05. The Baggage officers have arrived at the valuation of the goods detained vide DR No. 294/2024-25 dated 13.01.2025 to an extent of Rs. 65,193/- (\$765*85.22=Rs. 65,193/-) as per invoice dated 01.01.2025 produced by the passenger.

06. The passenger has requested vide letter dated 13.01.2025 for waiver of Show Cause Notice and Personal Hearing. Further, in his said letter, he *inter alia* stated that he travelled from Coimbatore to Bali on 02.01.2025 to celebrate his client birthday with whom he had engaged in e-commerce business. 13 nos of laptops were handed over by his client. His client was

an Australian citizen, who was running a online business in the name of M/s. UDFYN involved in customization of branded uniforms with robotic printer and customization of T-shirts, which were being manufactured at Tripur in the name of M/s. Rang Clothing and being supplied to his client by him for furtherance of business. I find that the laptops are classifiable under heading 8471 of Customs Tariff Act, 1975 and is restricted goods as per ITC (HS) – Schedule I of Import policy. Further, as per ITC (HS) – Schedule I of Import policy, all dutiable goods imported by a passenger or member of crew in his baggage are restricted as provided in Customs Baggage Rules. Hence, the goods imported over and above the quantity restricted/allowed in Baggage Rules are to be dealt in accordance with the restriction or prohibitions laid under Foreign Trade Policy and such goods in excess / restricted goods cannot be allowed merely on payment of duty. If there is any contravention then appropriate fine and penalty has to be imposed. Further, as per Section 111 of the Customs Act, 1962 the goods imported or brought within the Indian Customs waters for the purpose of being imported contrary to any prohibition imposed by or under Customs Act or any other law and not declared to the customs in the declaration form specified under Section 77 shall be liable to confiscation.

Restricted/Prohibited nature of Electronics & IT Goods

07. The issue on hand that has to be decided is whether there is any prohibition and if so what is the Policy of the Government of India in respect of second hand / refurbished laptops.

7.1 As per Para 2.31(I)(a) / (b) of the Foreign Trade Policy, 2015-20 as amended vide Gazette Notification No. 13/2024-25 dated 20th May, 2024, Import of "all electronics and IT Goods" notified under the Electronics and IT Goods (Requirements of Compulsory Registration) Order 2012 (CRO, 2012) as well as under the Electronics and IT Goods (Requirements of Compulsory Registration) Order 2021 (CRO, 2021) as amended from time to time is "restricted".

7.2 Further, as per Para 2(C) of the General Notes Regarding Import Policy of ITC (HS), 2022 Schedule-I Import Policy as amended vide Gazette Notification No. 13/2024-25 dated 20 th May, 2024, the import of Goods (new as well as second hand, whether or not refurbished, repaired or reconditioned) notified under the "Electronics and Information Technology Goods (Requirement of Compulsory Registration) Order, 2021, as amended from time to time, is prohibited unless they are registered with the Bureau of Indian Standards (BIS) and comply to the 'Labelling Requirements' published by BIS, as amended from time to time', or on specific exemption letter from Ministry of Electronics and Information Technology (MeitY) for a particular consignment, as per provisions of Gazette Notification SO No. 1929 dated 26.04.2023. **The importer shall re-export such prohibited goods reaching Customs ports else the Customs Authorities shall deform the goods beyond use and dispose of the goods as scrap under intimation to Ministry of Electronics and Information Technology (MeitY).**

7.3 In Electronics and Information Technology Goods (Requirement of Compulsory Registration) Order, 2021 dated 18th March 2021, Laptops which are mentioned at S. No. 2 of the Schedule to the said Order requires Compulsory Registration with Bureau of Indian Standards failing which such Laptops is prohibited for import.

7.4 By a bare reading of the Import Policy read with CRO, 2012 and CRO, 2021 it argues well to say that the said goods viz., Refurbished / Second Hand Laptops are prohibited in nature for import as the passenger was not able to show that said electronic goods were registered under Electronics and Information Technology Goods (Requirement of Compulsory Registration) Order, 2021 or complied with the 'Labelling Requirements' published by BIS, as amended from time to time.

7.5 Therefore it argues well to say that impugned importer of second hand laptops / refurbished laptops brought by the passenger is prohibited and as per 7.2 supra, the policy expressly states that the said prohibited laptops ought to be re-exported failing which Customs Authorities shall deform the goods beyond use and dispose of the goods as scrap under intimate to MeitY.

7.6 Thus, I find that the impugned import of second hand laptops by the passenger is liable for confiscation under sections 111(d) of the Customs Act, 1962 read with the above Notification dated 20.05.2024. Moreover, the passenger vide his letter dated 13.01.202 admitted that he did not declare to Customs regarding the dutiable / prohibited nature of such laptops which he attempted to clear through green channel. In the said letter he had also admitted that it was required for running his business / commercial interest. By not declaring the said second hand laptops, the impugned import is also liable to confiscation under sections 111(l) and 111(m) of the Customs Act, 1962. I also find that the passenger was unable to provide any documents to show that the said second hand laptops were registered with the Bureau of Indian Standards (BIS) and comply to the 'Labelling Requirements' published by BIS, as amended from time to time', or was he able to provide any specific exemption letter from Ministry of Electronics and Information Technology (MeitY) for this particular consignment. Hence, I find that the impugned import is also liable to confiscation under section 111(o) of the Customs Act, 1962. By concealing it checked in baggage and not declaring it to Customs, I find that the impugned import is also liable to confiscation under section 111(i) of the Customs Act, 1962.

08. As regards imposition of redemption fine, I find that section 125(1) of the Customs Act, 1962 states as follows:

“ Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods 1 [or, where such owner is not known, the person from whose possession or custody such goods have been seized,] an option to pay in lieu of confiscation such fine as the said officer thinks fit.”

08.1 I find from para 7.6 supra, that the passenger has rendered the goods liable to confiscation under section 111(d), I have to decide on whether to allow the goods on payment of Fine under section 125(1) of the Customs Act, 1962. In this case, I find that the Fine is imposable under the said provision as prohibition for import of second hand laptops is clearly established vide para 7 supra. However, as discussed in para 7.2 supra, the goods cannot be allowed clearance for home consumption but the same has to re-exported failing which it has destroyed by Customs under intimation to Meity.

09. As regards imposition of penalty, I find that as per Section 112 of Customs Act, 1962 states as follows:

Any person, -

(a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111, shall be liable,

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(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty 1 [not exceeding the value of the goods or five thousand rupees], whichever is the greater;

Hence, I find that the passenger is liable for penalty under section 112(a) and 112(b) for rendering the goods liable to confiscation under section 111(d), 111(l), 111(m), 111(i) and 111(o) of the Customs Act, 1962 and therefore the passenger has to be penalized.

10. Accordingly, I pass the following order:

ORDER

- i. I order the confiscation of 13 nos. of old and used laptops recovered and which was detained vide DR.no.294/2024-25 dt.13.01.2025 from Shri. Rajesh Kumar and valued at ₹ **65,193/-** (Rupees Sixty Five Thousand One Hundred and Ninety Three only) under Sections 111(d), 111(l), 111(m), 111(i) & 111(o) of the Customs Act, 1962 read with Section 3(3) of the Foreign Trade (D&R) Act, 1992 read with notification no. 13/2024-25 dated 20.05.2024 issued by DGFT.
- ii. However, as per Section 125 of the Customs Act, 1962, I allow the Shri. Rajesh Kumar (holder of Passport No. N465200) to re-export the said

second hand laptops on payment of fine of **Rs. 6,500/-** (Rupees Six Thousand Six Five Hundred only) subject to re-export of the same only.

- iii. I impose a Personal Penalty of **Rs. 5,000/-** (Rupees Five Thousand only) on Shri. Shri. Rajesh Kumar, under Section 112 (a) and (b) of the Customs Act, 1962.

ARVIND KUMAR
SUPERINTENDENT
Airport-Coimbatore-Customs-

Preventive-Division-Trichy

To
Shri. Rajesh Kumar,
Old No. 19, New No. 36,
College road, 5th Cross Street,
Trippur, Tamilnadu-641602

Copy submitted to :
The Principal Commissioner of Customs (Review Section), Hqrs.,
Tiruchirappalli