



सीमाशुल्क(अपील) आयुक्तकाकार्यालय,

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), अहमदाबाद AHMEDABAD,

चौथी मंज़िल 4th Floor, हडकोभवन HUDCO Bhavan, ईश्वर भुवन रोड IshwarBhuvan Road,

नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009

दूरभाषक्रमांक Tel. No. 079-26589281

DIN - 20250671MN000041944C

क	फ़ाइलसंख्या FILE NO.	S/49-389/CUS/AHD/2023-24
ख	अपीलआदेशसंख्या ORDER-IN-APPEAL NO. (सीमाशुल्कअधिनियम, 1962 कीधारा 128ककेअंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962) :	AHD-CUSTM-000-APP-80-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	16.06.2025
ङ	उदभूतअपीलआदेशकीसं. वदिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	160/ADC/VM/O&A/2023-24, dated 26.10.2023
च	अपीलआदेशजारीकरनेकीदिनांक ORDER-IN-APPEAL ISSUED ON:	16.06.2025
छ	अपीलकर्ताकानामवपता NAME AND ADDRESS OF THE APPELLANT:	Mr Lalit D Israni, BK No 31B, Room No 2/3, Nagrani Niwas, 1st Floor, Ulhasnagar, Thane - 421001
1.	यहप्रतिउसव्यक्तिकेनिजीउपयोगकेलिएमुफ्तमेंदीजातीहैजिनकेनामयहजारीकियागयाहै. This copy is granted free of cost for the private use of the person to whom it is issued.	
2.	सीमाशुल्कअधिनियम 1962 कीधारा 129 डीडी (1) (यथासंशोधित) केअधीननिम्नलिखितश्रेणियोंकेमामलोंकेसम्बन्धमेंकोईव्यक्तिइसआदेशसेअपनेकोआहतमहसूसकरताहोतोइसआदेशकीप्राप्तिकीतारीखसे 3 महीनेकेअंदरअपरसचिव/संयुक्तसचिव (आवेदनसंशोधन), वित्तमंत्रालय, (राजस्वविभाग) संसदमार्ग, नईदिल्लीकोपुनरीक्षणआवेदनप्रस्तुतकरसकतेहैं.	



	Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.	
	निम्नलिखितसम्बन्धितआदेश/Order relating to :	
(क)	बैगेजकेरूपमेंआयातितकोईमाल.	
(a)	any goods imported on baggage.	
(ख)	भारतमेंआयातकरनेहेतुकिसीवाहनमेंलादागयालेकिनभारतमेंउनकेगन्तव्यस्थानपरउतारेनगएमालयाउसगन्तव्यस्थानपरउतारेजानेकेलिएअपेक्षितमालउतारेनजानेपरयाउसगन्तव्यस्थानपरउतारेगएमालकीमात्रामेंअपेक्षितमालसेकमीहो.	
(b)	any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination.	
(ग)	सीमाशुल्कअधिनियम, 1962 केअध्यायX तथाउसकेअधीनबनाएगएनियमोंकेतहतशुल्कवापसीकीअदायगी.	
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.	
3.	पुनरीक्षणआवेदनपत्रसंगतनियमावलीमेंविनिर्दिष्टप्रारूपमेंप्रस्तुतकरनाहोगाजिसकेअन्तर्गतउसकीजांचकीजाएगी औरउसकेसाथनिम्नलिखितकागजातसंलग्नहोनेचाहिए :	
	The revision application should be in such form and shall be verified in such manner as may be specified in the relevant rules and should be accompanied by :	
(क)	कोर्टफीएक्ट, 1870केमदसं. 6 अनुसूची 1 केअधीननिर्धारितकिएगएअनुसारइसआदेशकी 4 प्रतियां, जिसकीएकप्रतिमेंपचासपैसेकीन्यायालयशुल्कटिकटलगाहोनाचाहिए.	
(a)	4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule 1 item 6 of the Court Fee Act, 1870.	
(ख)	सम्बद्धदस्तावेजोंकेअलावासाथमूलआदेशकी 4 प्रतियां, यदिहो	
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any	
(ग)	पुनरीक्षणकेलिएआवेदनकी 4 प्रतियां	
(c)	4 copies of the Application for Revision.	
(घ)	पुनरीक्षणआवेदनदायरकरनेकेलिएसीमाशुल्कअधिनियम, 1962 (यथासंशोधित) मेंनिर्धारितफीसजोअन्यरसीद, फीस, दण्ड, जब्तीऔरविविधमदोंकेशीर्षकेअधीनआताहैमेंरु. 200/- (रूपएदोसौमात्र) यारु.1000/- (रूपएएकहजारमात्र), जैसाभीमामलाहो, सेसम्बन्धितभुगतानकेप्रमाणिकचलानटी.आर.6 कीदोप्रतियां. यदिशुल्क, मांगागयाब्याज, लगायागयादंडकीराशिऔररूपएएकलाखयाउससेकमहोतोऐसेफीसकेरूपमेंरु.200/- औरयदिएकलाखसेअधिकहोतोफीसकेरूपमेंरु.1000/-	
(d)	The duplicate copy of the T.R.6 challan evidencing payment of Rs.200/- (Rupees two Hundred only) or Rs.1,000/- (Rupees one thousand only) as the case may be, under the Head of other receipts, fees, fines, forfeitures and Miscellaneous Items being the fee prescribed in the Customs Act, 1962 (as amended) for filing a Revision Application. If the amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs.200/- and if it is more than one lakh rupees, the fee is Rs.1000/-.	
4.	मदसं. 2 केअधीनसूचितमामलोंकेअलावाअन्यमामलोंकेसम्बन्धमेंयदि कोईव्यक्तिइसआदेशसेआहतमहसूसकरताहोतोवेसीमाशुल्कअधिनियम 1962 कीधारा 129 ए (1) केअधीनफॉर्मसी. ए. -3 मेंसीमाशुल्क, केन्द्रीयउत्पादशुल्कऔरसेवाकरअपीलअधिकरणकेसमक्षनिम्नलिखितपतेपरअपीलकरसकतेहैं	
	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :	
	सीमाशुल्क, केन्द्रीयउत्पादशुल्कवसेवाकरअपीलियअधिकरण, पश्चिमीक्षेत्रीयपीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench



	दूसरीमंजिल, बहुमालीभवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2 nd Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए(1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-	
	Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -	
(क)	अपील से सम्बन्धित मामले में जहाँ कि सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रुपये से अधिक नहीं हो तो एक हजार रुपये.	
(a)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;	
(ख)	अपील से सम्बन्धित मामले में जहाँ कि सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रुपये से अधिक हो लेकिन रुपये पचास लाख से अधिक नहीं हो तो; पाँच हजार रुपये	
(b)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;	
(ग)	अपील से सम्बन्धित मामले में जहाँ कि सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रुपये से अधिक हो तो; दस हजार रुपये.	
(c)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees	
(घ)	इस आदेश के विरुद्ध अधिकरण के सामने, मांगा गया शुल्क के 10% अदा करने पर, जहाँ शुल्क या शुल्क एवं दंड विवाद में हैं, या दंड के 10% अदा करने पर, जहाँ केवल दंड विवाद में है, अपील रखा जाएगा।	
(d)	An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.	
6.	उक्त अधिनियम की धारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए किए गए अपील : - अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने चाहिए.	
	Under section 129 (a) of the said Act, every application made before the Appellate Tribunal-	
	(a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or	
	(b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.	



ORDER-IN-APPEAL

Mr. Lalit D Israni, BK No 31B, Room No 2/3, Nagrani Niwas, 1st Floor, Ulhasnagar, Thane – 421001 (hereinafter referred to as “the appellant”) has filed the present appeal in terms of Section 128 of the Customs Act, 1962 against Order in Original No.160/ADC/VM/O&A/2023-24, dated 26.10.2023 (hereinafter referred to as “the impugned order”) passed by the Additional Commissioner, Customs, Ahmedabad (hereinafter referred to as “the adjudicating authority”).

2. Briefly stated, facts of the case are that on the basis of input received the appellant having an Indian Passport bearing No. X8336776 arrived from Bangkok to Ahmedabad on 25.08.2023 by Thai Smile Flight No. WE 341 at SVPI Airport, Ahmedabad. The AIU officers asked the appellant if he has anything to declare, in reply to which he denied. The appellant, as directed by the AIU officers, removed all metallic objects such as mobile, wallet, purse, one gold chain and one kada etc. and kept the same in the plastic tray and passed through the Door Frame Metal Detector (DFMD) machine. While passing through the DFMD Machine, no beep sound was heard indicating that there is no metallic thing on the body. The appellant confessed that he was carrying raw gold in jewellery form i.e. one gold chain and one gold kada.

2.1 The Government Approved Valuer, Shri Soni Kartikay Vasantrai, vide valuation report dated 25.08.2023, certified that 03 gold chain and 01 gold kada totally weighing 251.210 grams were of 24Kt/999.0 purity having Tariff Value of Rs. 13,00,421/- and Market Value of Rs.15,21,077/- calculated as per the Notification No. 04/2021-Customs(N.T.), dated 15.01.2021 (Gold) and Notification No. 05/2021-Customs (N.T.), dated 21.01.2021 (Exchange Rate).

2.2 The appellant had actively involved himself in the instant case of smuggling of gold into india. The appellant had improperly imported One Gold Chain and One Gold Kada of 24 Kt. gold having purity 999.0 totally weighing 251.210 grams, having tariff value of Rs.13,00,421/- and market value of Rs. 15,21,077/- without declaring it to the Customs. He opted for Green Channel to exit the Airport with a deliberate intention to evade the payment of Customs duty and fraudulently circumventing the restrictions and prohibitions imposed under the Customs Act, 1962 and other allied Acts, Rules and Regulations. Therefore, the improperly imported gold by the appellant without declaring it to the Customs on arrival in India cannot be treated as bonafide household goods or personal effects. The appellant has thus contravened the Foreign Trade Policy 2015-20 and Section 11(1)



of the Foreign Trade (Development and Regulation) Act, 1992 read with Section 3(2) and 3(3) of the Foreign Trade (Development and Regulation) Act, 1992. By not declaring the value, quantity and description of the goods Imported by him, the said appellant has violated the provisions of Baggage Rules, 2016, read with Section 77 of the Customs Act, 1962 and Regulation 3 of the Customs Baggage Declaration Regulations, 2013.

2.3 The improperly imported gold by the appellant, without declaring it to the Customs is thus liable for confiscation under Section 111(d), 111(f), 111(i), 111(j), 111(1) & 111(m) read with Section 2(22), (33), (39) of the Customs Act, 1962 and further read in conjunction with Section 11(3) of Customs Act, 1962. As per Section 123 of Customs Act 1952, the burden of proving that the said improperly imported gold articles, i.e. One Gold Chain and One Gold Kada, totally weighing 251.210 grams having tariff value of Rs.13,00,421/- and market value of Rs.15,21,077/- without declaring it to the Customs, are not smuggled goods, is upon the appellant.

2.4 The appellant vide his letter dated 11.09.2023, through his Advocate Shri O. M. Rohira, submitted that he wants to finish up the case at the earliest, hence he waives the issue of Show Cause Notice and request for early personal hearing in the matter.

2.5 The Adjudicating authority, vide the impugned order, has ordered for absolute confiscation of One Gold Chain and One Gold Kada, totally weighing 251.210 grams of 24 Kt. gold having purity 999.0 having tariff value of Rs.13,00,421/- and market value of Rs.15,21,077/-, under Section 111(d), 111(f), 111(i), 111(j), 111(l) and 111(m) of the Customs Act, 1962. The adjudicating authority has further given an option to the appellant to redeem the seized One Gold Chain and One Gold Kada, totally weighing 251.210 grams of 24 Kt. gold having purity 999.0 having tariff value of Rs.13,00,421/- and market value of Rs.15,21,077/- on payment of redemption fine of Rs.4,50,000/- under Section 125(1) of the Customs Act, 1962 in addition to the duty chargeable and any other charges payable in respect of the imported gold as per Section 125(2) of the Customs Act, 1962. The adjudicating authority has also imposed penalty of Rs.1,00,000/- on the appellant under Section 112(a)(i) of the Customs Act, 1962.

Being aggrieved with the impugned order, the appellant has filed the present appeal and mainly contended that;

- The Appellant humbly submits that the order of the confiscation of the Gold was not at all justified. The Appellant had clearly stated before lower authority that he had not contravened any provisions



of C.A. 1962 or any other allied Laws for the time being in force and he had no malafide intention to hide anything from Customs to avoid payment of duty as wrongly alleged.

- The Appellant humbly submits that he had also requested that he was also ready to pay the duty on the Gold Jewellery, particularly when the Gold Chain & Kada was worn on his body (i.e. Chain in his neck & Kada in his hand) & he had declared the Gold in the red channel. It was not his intention to evade the Customs duty by crossing through green channel. On the basis of his statement & also on the genuine facts, the lower authority had released all the Gold jewellery on payment of heavy R/F & P.P.
- The Appellant humbly submits that he had correctly stated in his original statement that all the Gold Jewellery belonged to him only & nobody else. The Appellant claimed the ownership of the Gold jewellery. Hence the appellant denies all the charges & allegations leveled in the order in toto. Further the Gold Jewellery was neither banned nor restricted under the B. Rules (Amendment), 2016.
- The Appellant humbly submits that the order of the lower authority in releasing the Gold jewellery on heavy fine & P.P. was not at all justified. The Appellant has cleared all the Gold Jewellery due to sentimental reasons as it was his own personal Gold Jewellery but the cost, duty, fine & P.P. taken together would be more than market values of the Gold Jewellery. He had also stated in his statement that all the Gold Jewellery were worn on the body & it was visible & it was not concealed in any manner whatsoever. He had not violated any provisions of the C.A. 1962 or FEMA 1999 or any other allied laws for the time being in force in India. Hence in the interest of justice, the R/F of Rs. 450000/- & P.P. of Rs. 100000/- deserves to be set aside or at least drastically be reduced, so that the appellant can claim the refund.
- The Appellant humbly submits that he is not a frequent visitor & this is the 1st time he had brought the Gold & he had claimed the ownership of the Gold as it was meant for his personal & household use & it was not meant for any sale or trade purpose. The Appellant has suffered economically; mentally & physically & he deserves utmost leniency by way of ordering the reduction in the fine & P.P.



Shri O. M. Rohira, Advocate, appeared for personal hearing on 10.06.2025 on behalf of the appellant through virtual mode. He reiterated the submissions made in the appeal memorandum. During hearing the advocate of the appellant submitted that the gold jewellery (gold chain and

gold kada) were worn on the body of the appellant and it was not ingeniously concealed. Further, as per para 30 of the impugned order the adjudicating authority has referred has referred the order (RA) No. 345/2022 and hence RF & PP to be reduced. The appellant has already cleared the gold.

5. I have gone through the facts of the case available on record, grounds of appeal and submission made by the appellant at the time of personal hearing. It is observed that the issues to be decided in the present appeal are as under:

(a) Whether the quantum of Redemption Fine of Rs.4,50,000/- imposed in the impugned order for redeeming confiscated One Gold Chain and One Gold Kada, totally weighing 251.210 grams of 24 Kt. gold having purity 999.0 having tariff value of Rs.13,00,421/- and market value of Rs.15,21,077/- under Section 125(1) of Customs Act, 1962, in the facts and circumstances of the case, is legal and proper or otherwise; and

(b) Whether the quantum of penalty amounting to Rs. 1,00,000/- imposed on the appellant, under Section 112(a)(i) of the Customs Act, 1962, in the facts and circumstances of the case, is legal and proper or otherwise.

6. It is observed that the facts and circumstances leading to interception of the appellant, holding Indian Passport No X 8336776, by the officers of Customs, AIU, at SVP International Airport, Ahmedabad, on 25.08.2023 and recovery of seized One Gold Chain and One Gold Kada, totally weighing 251.210 grams of 24 Kt. gold having purity 999.0 having tariff value of Rs.13,00,421/- and market value of Rs.15,21,077/- is undisputed. The appellant did not declare the said gold before Customs with an intention to escape payment of duty. These facts have also been confirmed in the statement of the appellant recorded under Section 108 of the Customs Act, 1962 on the same day. There is no disputing the facts that the appellant had not declared possession of gold at the time of his arrival in India. Thereby, he has violated the provisions of Section 77 of the Customs Act, 1962 read with Regulation 3 of the Customs Baggage Declaration Regulations, 2013. It is observed that the appellant, in the statement, had admitted the knowledge, possession, carriage, non-declaration and recovery of the said gold. Therefore, the confiscation of gold by the adjudicating authority was justified. Since the confiscation of the seized gold is upheld, the appellant had rendered himself liable for penalty under Section 112(a)(i) of the Customs Act, 1962.



6.1 The appellant is not contesting confiscation of gold but is in the appeal only for the redemption fine imposed in respect of redeeming seized gold and penalty. Hence, my finding will be restricted to the quantum of redemption fine and penalty.

6.2 I have perused the decisions of the Government of India passed by the Principal Commissioner & ex officio Additional Secretary to the Government of India on similar issue. I find that the Revisionary Authority has taken a view that failure to declare the gold and failure to comply with the prescribed conditions of import has made the impugned gold "prohibited" and therefore they are liable for confiscation and the appellant is consequently liable for penalty. Thus, it is held that the undeclared One Gold Chain and One Gold Kada, totally weighing 251.210 grams of 24 Kt. gold having purity 999.0 having tariff value of Rs.13,00,421/- and market value of Rs.15,21,077/- are liable to confiscation and the appellant is also liable to penalty.

6.3 In this regard, I also rely the judgement of the Hon'ble Supreme Court in the case of Om Prakash Bhatia Vs Commissioner of Customs, Delhi 2003 (155) E.L.T. 423 (SC) wherein it is held that;

".....(a) if there is any prohibition of import or export of goods under the Act or any other law for the time being in force, it would be considered to be prohibited goods; and (b) this would not include any such goods in respect of which the conditions, subject to which the goods are imported or exported, have been complied with. This would mean that if the conditions prescribed for import or export of goods are not complied with, it would be considered to be prohibited goods. This would also be clear from Section 11 which empowers the Central Government to prohibit either 'absolutely' or 'subject to such conditions' to be fulfilled before or after clearance, as may be specified in the notification, the import or export of the goods of any specified description. The notification can be issued for the purposes specified in sub-section (2). Hence, prohibition of importation or exportation could be subject to certain prescribed conditions to be fulfilled before or after clearance of goods. If conditions are not fulfilled, it may amount to prohibited goods....."

It is apparent from the above judicial pronouncement that even though gold is not enumerated as prohibited goods under Section 11 of the Customs Act, 1962, but it is to be imported on fulfilment of certain conditions, still, if the conditions for such import are not complied with, then import of gold will fall under prohibited goods.



6.4 It is observed that the adjudicating authority in the instant case had ordered for confiscation of seized One Gold Chain and One Gold Kada, totally weighing 251.210 grams of 24 Kt. gold having purity 999.0 having tariff value of Rs.13,00,421/- and market value of Rs.15,21,077/-. The adjudicating authority using his discretion gave an option to the appellant to redeem the seized gold on payment of redemption fine as provided under Section 125 of the Customs Act 1962.

6.5 In respect of allowing redemption of the seized gold on payment of fine, it is observed that the adjudicating authority after considering facts and circumstances of the case at Para 28 to 33 of the impugned order has held that:

"28. I further find that ingenious concealment is one of the important aspects for deciding on the redemption/ non-redemption of the goods. Further, while deciding the case, the CBIC Circular / Instruction F. No: 275/17/2015-CX. 8A dated 11.03.2015 is also looked into, which emphasized that Judicial discipline should be followed while deciding pending show cause notices/appeals.

29. I find that, the option to redemption has been granted and absolute confiscation is set-a-side vide order No. 12/2021-CUS(WZ)/ASAR dated 18.01.2021 by the Revision authority, GOI issued under F. No: 371/44/8/2015-RA/785 dated 29.01.2021. Similar view was taken by Revision Authority vide Order No. 287/2022-CUS(WZ)/ASAR/Mumbai dated 10.10.2022; Order No. 245/2021- CUS(WZ)/ASAR dated 29.09.2021 issued under F. No: 371/44/8/15-RA/2020 dated 06.10.2021 and Order No: 314/2022-Cus(WZ)/ASAR/Mumbai dated 31.10.2022 issued from F. No. 371/273/B/WZ/2018 dated 03.11.2022. Further, the above mentioned 3 orders of RA has been accepted by the department.

30. I also find that in Order No. 345/2022-CUS (WZ)/ASRA/MUMBAI dated 25.11.2022, in the case of Mrs. Manju Tahelani Vs. Principal Commissioner of Customs, Ahmedabad, passed by the Revision Authority, Government of India, Mumbai in which it was held in para 13 that -



"In the instant case, the quantum of gold under import is small and is not of commercial quantity. The impugned gold jewellery had been worn by the applicant on her person and Government observes that sometimes passengers resort to such methods to keep their valuables/ precious possessions safe. There are no allegations that the applicant is habitual offender and was involved in similar offence earlier. The fact of the case indicate that it is a case of non-declaration of gold, rather than a case of smuggling of commercial consideration."

31. I also find that in Order No. 245/2021-CUS(WZ)/ASAR/MUMBAI dated 29.09.2021 in case of Shri Memon Anjum, the Revisionary

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Authority set aside the order of absolute confiscation. The Revisionary Authority in Para observed as under:

"Government notes that there is no past history of such offence/violation by the applicant. The part of impugned gold jewellery was concealed but this at times is resorted to by travellers with a view to keep the precious goods secure and safe. The quantity/type of gold being in form of gold chain and 3 rings is jewellery and is not commercial in nature. Under the circumstance, the Government opines that the order of absolute confiscation in the impugned case is in excess and unjustified. The order of the Appellate authority is therefore liable to be set aside and the goods are liable to be allowed redemption on suitable redemption fine and penalty."

32 I further find that the Hon'ble High Court of Delhi in a recent judgement dated 21.08.2023 in the case of Nidhi Kapoor and others, in para 156 of its order observed that –

"The Court holds that an infraction of a condition for import of goods would also fall within the ambit of Section 2(33) of the Act and thus their redemption and release would become subject to the discretionary power of the Adjudicating Officer. For reasons aforesaid, the Court finds no illegality in the individual orders passed by the Adjudicating Officer and which were impugned in these writ petitions."

33 I find that hiding the seized goods by wearing on the body cannot be considered as an ingenious concealment even though the charge of non-declaration of the seized gold is established. Further, the ownership of the seized gold by Shri Lalit Israni cannot be denied, as he claims ownership of seized gold and also produces purchase bill. Further, he brought gold for the first time and hence it is not a case of habitual offender. Looking to the facts that this is not a case of ingenious concealment, I am of the considered opinion that under Section 125 of the Customs Act, 1962, the option for redemption can be granted. I further find that the passenger submitted copy of Bill No. 26 dated 23.08.2023, issued in the name of him."

6.6 It is further observed that the appellant has relied upon some decisions in the grounds of appeal wherein it was held that in such cases of alleged non declaration under Section 77 of Customs Act 1962, confiscation was upheld but gold was allowed to be released on payment of redemption fine. In the present case also, the adjudicating authority after considering all the submissions advanced by the appellant and relying upon the decisions of the Hon'ble revisionary authority, and using his discretion gave an option to the appellant to redeem the seized gold on payment of redemption fine of Rs 4,50,000/- as provided under Section 125 of the Customs Act, 1962. The appellant in the appeal before me has relied upon the decisions where also gold was allowed to be redeemed on payment of fine. The appellant has not given any grounds for challenging



the quantum of redemption fine imposed by the adjudicating authority. Thus, in my considered view, the adjudicating authority after judiciously exercising his discretion had imposed redemption fine of Rs. 4,50,000/- in lieu of confiscation of seized gold.

6.7 In respect of penalty imposed, it is observed that the adjudicating authority after considering facts and circumstances of the case at Para 34 of the impugned order has held that:

"34 I further find that the passenger had agreed and admitted in the statement recorded that he travelled with the said gold made up of 999.0/24Kt. purity gold having net weight of 251.210 Grams from Bangkok to Ahmedabad. Despite his knowledge and belief that the gold carried by him in his person is an offence under the provisions of the Customs Act, 1962 and the Regulations made under it, the passenger attempted to carry the said gold. The passenger in his statement dated 25.08.2023 stated that he did not declare the impugned gold as he wanted to clear the same illicitly and evade the Customs Duty. Thus, it is clear that the passenger has involved himself in carrying, removing, keeping and dealing with the undeclared gold which he knows very well and has reason to believe that the same are liable for confiscation under Section 111 of the Customs Act, 1962. Therefore, I find that the passenger is liable for penal action under the provisions of Sections 112 of the Act and I hold accordingly."

6.8 Further, in respect of quantum of penalty amounting to Rs 1,00,000/- imposed on the appellant for non-declaration of seized One Gold Chain and One Gold Kada, totally weighing 251.210 grams of 24 Kt. gold having purity 999.0 having tariff value of Rs.13,00,421/- and market value of Rs.15,21,077/-, I am of the considered view, that the penalty of Rs.1,00,000/- imposed on the appellant under Section 112(a)(i) of the Customs Act, 1962, in the impugned order by the adjudicating authority, is appropriate as per provisions of Section 112(a)(i) of the Customs Act, 1962 and commensurate with the omissions and commissions of the appellant. Therefore, there is no infirmity in the impugned order and the same is upheld.

7. In view of the above, the appeal filed by the appellant is rejected.



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(AMIT GUPTA)
COMMISSIONER (APPEALS)
CUSTOMS, AHMEDABAD.

Dated -16.06.2025

To,

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