CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH - COURT NO.II

Customs Appeal No.70422 of 2025

(Arising out of Order-in-Appeal No.306-Cus/APPL/LKO/2024 dated 06/05/2024 passed by Commissioner (Appeals) Customs, Central Excise & CGST, Lucknow)

Mr. Sonu Kumar Chaurasiya, **.....Appellant**
(S/o Sri Mahatam Prasad Chaurasia,
Adarsh Nagar, P.S. Mahadewa,
Siwan, Bihar-841226)

VERSUS

Commissioner of Customs (Pre.), Lucknow ....Respondent
(7th Floor, Apratyaksh Kar Bhawan,
Vibhuti Kunad, Gomti Nagar, Lucknow-226010)

APPEARANCE:

Absent on call, for the Appellant
Smt. Chitra Srivastava, Authorised Representative for the Respondent

CORAM: HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)

FINAL ORDER NO.70751/2025

DATE OF HEARING : 27 October, 2025
DATE OF DECISION : 27 October, 2025

SANJIV SRIVASTAVA:

This appeal is directed against Order-in-Appeal No.306-Cus/APPL/LKO/2024 dated 06/05/2024 passed by Commissioner (Appeals) Customs, Central Excise & CGST, Lucknow.

2.1 The appellant arrived and intercepted at CCSI Airport, Lucknow on 19.12.2021 from Dubai by Flight No.FZ-433. He declared the dutiable goods as NIL. However, on search of the luggage of the appellant, a hammer was found in which gold weighing 228.800 gm valued at Rs.11,64,592/- was concealed. The recovered god along with hammer was seized under Section 110 of the Customs Act, 1962.

2.2 After enquiry and investigations in the matter, a show cause notice dated 12.05.2022 was issued proposing confiscation of the seized goods alongwith imposition of penalties on the appellant.

2.3 The show cause notice was adjudicated vide Order-in-Original dated 11.04.2023.

2.4 Aggrieved appellant filed appeal before the Commissioner (Appeal) which has been dismissed as per the impugned order.

2.5 Aggrieved appellant has filed this appeal.

3.1 Counsel for the appellant is absent on call. I have heard Smt Chitra Srivastava learned Authorized Representative appearing for the Revenue. She informs that that the issue is in respect of the goods imported in the baggage of the passenger.

4.1 I have considered the impugned orders along with the submissions made in appeal and during the course of argument.

4.2 From the facts of the case as referred in para 2.1 it is evident that this appeal is filed in case of seizer/confiscation of gold recovered during search of a person and his luggage. The person had traveled from Dubai to India. The case being of a baggage seizure case, appeal against the order of Commissioner (Appeals) in this case could not lie before this Tribunal.

4.3 Rule 129A of the Customs Act, 1962 provides as under:-

> *129A. Appeals to the Appellate Tribunal-*
>
> *(1) Any person aggrieved by any of the following orders may appeal to the Appellate Tribunal against such order-*
>
> *(a) -----------------------*
>
> *(b) an order passed by the "Commissioner (Appeals)] under section 128A;*
>
> *(c) -----------------------------*
>
> *(d) --------------------------------*
>
> *[PROVIDED that no appeal shall lie to the Appellate Tribunal and the Appellate Tribunal shall not have*

jurisdiction to decide any appeal in respect of any order referred to in clause (b) if such order relates to,-

(a) any goods imported or exported as baggage;

(b) -------------------------------
(c) ---------------------------------"

4.4 At Sl. No.5 of appeal preamble of Order-in-Appeal No.306-Cus/Appl/LKO/2024 dated 06/05/2024 passed by Commissioner (Appeals) Customs, Central Excise & CGST, Lucknow following has been recorded:-

"5. *सीमा शुल्क अधिनियम*, 1962 की धारा 129 *ए* की उपधारा के प्रथम प्रावधान में क्लॉज (धारा) (*ए*) *(सी) तथा (बी)में निर्धारित प्रकृति के* मामलों में केंद्रीय उत्पाद शुल्क आयुक्त (अपील) के द्वारा पारित अपील पर आदेश *के विरुद्ध ट्रीब्यूनल में अपील नहीं की जायेगी और ऐसे मामलो में उक्त अधिनियम की धारा* 129 *डी डी में निहित प्रावधान* को *देखा जाए।*"

4.5 Thus the appeal before CESTAT in the present case is not maintainable. Similar view has been expressed in the following cases:

- Ashok Kumar [2000 (124) E.L.T. 770 (Tribunal)]
- Mahabubunissa [Mumbai bench Final Order No. A/85267-85268/2025 dated 17.02.2025 in Customs Appeal No. 85903 & 85904 OF 2022]

4.6 In the case of Ahamed Gani Natchiar [2022 (10) T.M.I. 100 - Madras High Court] Hon'ble Madras High Court has held as follows:

"7. Against the above background, the following questions arise for consideration:

a. Whether the Tribunal was right in rejecting the plea of the appellant herein of lack of authority/ jurisdiction of the Tribunal, in view of the fact that the issue according to the appellant relates to goods imported as "Baggage" and thus falls within the exclusions carved out in the proviso to Section 129A(1) of the Customs Act, 1962 which reads as under:

> *Section 129A(1) in the Customs Act, 1962 …….*
>
> *A reading of the above provision would show that the Tribunal shall not have jurisdiction to decide any appeal in respect of an order passed by the Commissioner (Appeals) under Section 128 A of the Customs Act, 1962 relating to any goods imported or exported as "Baggage"."*

4.7 Undisputedly, the issue involved in the present case is in relation to the goods imported as baggage. From the above Section it is evident that the appeal in the present case against the order of Commissioner (Appeals) would not lie before this Tribunal. Accordingly, I hold that this appeal is not maintainable before this Tribunal.

5.1 The appeal is dismissed as not maintainable. Appellant may pursue for remedy before appropriate forum, if possible.

(Dictated and pronounced in open court)

(SANJIV SRIVASTAVA)
MEMBER (TECHNICAL)

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