CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Application(s) Involved:

Customs Appeal No. 20501 of 2021

[Arising out of Order No. GEN/INV/FUP/58/2021-CUS-PRE-DIV-THRISSUR dated 09/04/2021 issued under Section 110A of Customs Act, 1962 and passed by Commissioner of Customs (Preventive) Cochin, COCHIN.]

Commissioner Of Customs (Preventive) Cochin
5th Floor, Catholic Center,
Broadway
Cochin – 682 031.
Kerala

Appellant(s)

VERSUS

M/s. Jenis K L
S/o Lonappan Kottalukaran House
Nambiar Road PO Puthur
THRISSUR – 680 014.
KERALA

Respondent(s)

Appearance:

Mrs. D. S. Sangeetha, Addl. Commissioner (AR) and
Mr. K. A. Jathin, Dy. Commissioner (AR) for the Appellant.

None for the Respondent.

CORAM:

HON'BLE DR. D. M. MISRA, MEMBER (JUDICIAL)
HON'BLE MRS. R. BHAGYA DEVI, MEMBER (TECHNICAL)

Final Order No. 20459 / 2023

Date of Hearing: 29/05/2023
Date of Decision: 29/05/2023

Per : D. M. Misra,

None present for the respondent. Heard learned Authorised Representative for the Revenue.

2. Briefly stated the facts of the case are that the learned Commissioner by order dated 9.4.2021 pursuant to the direction of the Hon'ble High Court of Kerala in Writ Petition No.7341/2021, provisionally released the seized goods earlier in accordance with Section 110A of the Customs Act, 1962. While releasing the goods provisionally under the impugned order, the learned Commissioner directed the respondents to execute 50% of the value of the gold seized by way of Bank Guarantee and/or immovable property of sufficient worth as security. Aggrieved by the said order, Revenue filed appeal before this forum.

3. Now, it has been brought to the notice of the Bench that the Joint Commissioner by its order dated 16.8.2021 finally adjudicated the case observing as follows:

(i) I order release of 46518.88 grams of 22 ct gold ornaments valued at Rs.19,65,42,268/- and old gold ornaments weighing 68.25 grams valued at Rs.2,88,356/- seized from M/s. J.J. Jewellers, Thrissur on 05.04.2021 under Mahazar and seizure Memo dated 05.04.2021;

(ii) I order that the 1000.00 grams of foreign gold valued at Rs.42,25,000/- (Forty Two Lakhs Twenty Five Thousand Only) found not available in the physical stock at the time of seizure is not liable for confiscation and exempt it from penal action under Section 112 of the Customs Act, 1962.

(iii) I impose a penalty of Rs.20,00,000/- (Rupees Twenty Lakhs Only) under Section 112(a) of the Customs Act, 1962 for acquiring the possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing of the 1303.82 grams of foreign gold/deformed foreign made gold valued at Rs.55,08,650/- (Rupees Fifty Five Lakhs Eight

Thousand Six Hundred and Forty Only) found not available in the physical stock at the time of seizure;

(iv) I refrain from imposing any penalty under Section 114AA of the Customs Act, 1962."

4. Since the issue has now been finally adjudicated by the department, therefore, the appeal against the provisional release of the goods under Section 110A of the Customs Act, 1962, in our opinion, becomes infructuous and accordingly, dismissed.

(Dictated and pronounced in Open Court)

(D. M. MISRA)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

RV