IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, CHENNAI

Customs Appeal No.40195 of 2020

(Arising out of Order-in-Appeal Airport C. Cus. I No. 30 & 31/2020 dated 16.1.2020 passed by the Commissioner of Customs (Appeals – I), Chennai)

Sri Ravi Nakhat **Appellant**
16, Mangoe Lane
Kolkata – 700 001.

Vs.

Commissioner of Customs **Respondent**
Chennai II, Custom House,
60, Rajaji Salai, Chennai – 600 001.

AND

Customs Appeal No.40196 of 2020

(Arising out of Order-in-Appeal Airport C. Cus. I No. 30 & 31/2020 dated 16.1.2020 passed by the Commissioner of Customs (Appeals – I), Chennai)

Sri Rishi Nakhat **Appellant**
48/34/1, Punrna Chandra Mitra Lane
Swiss Park, Kolkata – 700 003.

Vs.

Commissioner of Customs **Respondent**
Chennai II, Custom House,
60, Rajaji Salai, Chennai – 600 001.

APPEARANCE:

Sri Rathindranath, Advocate for the Appellant
Sri S. Balakumar, AC (AR) for the Respondent

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Hon'ble Ms. Sulekha Beevi C.S., Member (Judicial)

Final Order Nos. **41672-41673 / 2021**

Date of Hearing : 22.03.2021
Date of Pronouncement: 14.07.2021

1.1 Brief facts are that on 28.12.2016, a letter was received by Customs from the Manager, Cargo Operations of M/s. Indigo Cargo (Domestic Airlines), Chennai along with photocopy of images of a gold bar. In the letter, it was stated that M/s.

Monopoly Carriers & Cargo (P) Ltd. Chennai had booked a consignment declared as "docs and samples" with destination from Chennai to Kolkata. The same was booked under airway bill dated 26.12.2016 for the flight scheduled for departure at 5:20 a.m. on 27.12.2016. While scanning the cargo on the night shift of 26.12.2016, the airline staff suspected a piece of gold bar inside the parcel. As there were no supporting documents for the same, the parcel was detained.

1.2 Inquiry and investigation was initiated and summons was issued to Sri Subhash Viswakarma, the Branch Manager of M/s. Monopoly Carriers & Cargo (P) Ltd. Chennai. In his statement recorded under section 108 of the Customs Act, 1962, he stated that one of his staff Sri Anil received a parcel from one Sri Naveen who told him that it contained some 'artificial stones'. The parcel was booked with Naveen as consignor and Sri Gopal, Kolkata as consignee by airway bill dated 26.12.2016. It was also stated by him that he did not obtain full address, ID proof of these people.

1.3 On receiving information about detaining the parcel on 27.12.2016, he and his staff along with Sri Naveen and his associate Sri D.P. Saini met the Manager of M/s. Indigo Cargo (Domestic Airlines), Chennai and requested to return the said parcel. But the Manager refused to return the parcel and asked them to produce supporting documents for the consignment. Thereafter, on the same day, he received an e-mail from the email ID of Sri Ravi Nakhat (Appellant in Appeal No. C/40195/2020). The mail was attached with a sales invoice dated 23.12.2016 issued by M/s. Venus Creations, Kolkata. He submitted the letter along with sales invoice to the Manager of M/s. Indigo Cargo (Domestic Airlines), Chennai. The documents were forwarded by airlines to the Customs authorities.

1.4 Based upon these documents and statements recorded, summons was issued to Sri Naveen who is working as a delivery boy in M/s. Parv Express, Sowcarpet, Chennai. Sri Naveen in his statement stated that on his uncle's (D.P. Saini) advice, on 26.12.2016, he met Sri Pintoo Kumar of M/s. Arihant Jewellers, Chennai. Sri Pintoo Kumar handed over to him a parcel which he gave to his uncle Sri D.P. Saini. That he is unaware of the contents of the parcel. On the instructions of his uncle on 26.12.2016, he went to the courier company and booked the cargo with himself as a consignor and Sri Gopal as consignee as directed by his uncle.

1.5 On 29.12.2016, statement was recorded from Sri D.P. Saini who agreed that he had given instructions to Sri Naveen to collect the parcel from Sri Pintoo Kumar and also to book it to Sri Gopal at Kolkata. A letter was sent by Customs, Chennai to the Commissioner of Customs (Preventive), Kolkata informing about these facts and also requesting to do detail investigation regarding the sales invoice issued by M/s. Venus Creation, Kolkata dated 23.12.2016 presented to the Manager of M/s.

Indigo Cargo (Domestic Airlines), Chennai. Statements of the appellant Sri Rishi Nakhat and Sri Ravi Nakhat as well as Sri Gopal was recorded by officers at Kolkata and a report was sent to the Customs authorities at Chennai.

1.6 On examining the parcel by the officers of Customs, Chennai, it was found that it contained a gold bar weighing one kilogram with the markings 'HARAEUSSA. ARGOR; SWITZERLAND; 1 KILO GOLD; 995.0 ; MELTER; ASSAYER'. On close scrutiny, the departmental authorities found that the serial number of the gold bar was not seen since the serial number was completely hammered. An authorized gold and gems consultant certified that the purity of the gold is 0.995. The value as on 30.12.2016 was Rs.28,16,000/-. The said gold bar was seized under mahazar dated 30.12.2016 and deposited in Airport Customs Warehouse, Chennai on the same day.

1.7 A summon was issued to Sri D.P. Saini and his statement was recorded on 31.12.2016, in which he stated that the parcel was booked by Sri Naveen on his instructions. That he received a call on 26.12.2016 from Sri Gopal, Kolkata asking him to collect the parcel from Sri Pintoo Kumar, M/s. Arihant Jewelers, T. Nagar, Chennai. They also directed him to wrap the parcel with carbon paper and send it to Sri Gopal through M/s. Monopoly Carriers & Cargo (P) Ltd. He admitted that he had earlier sent three such parcels to Sri Gopal at Kolkata.

1.8 Based on such statement, Sri Pintoo Kumar was called upon to explain his stand. In his statement dated 31.12.2016, he stated that his friend Sri Rishi of Kolkata was in Chennai on 26.12.2016 and on the same day Sri Rishi Nakhat gave a packet to him which had gold inside and told him to give it to one person whom he would tell later. Sri Rishi thereafter left to Tirupati. That as per Rishi's instructions he had called Sri D.P. Saini and had handed over the packet to Sri Naveen on 26.12.2016 itself. Statements of Sri Rishi Nakhat and Sri Ravi Nakhat were recorded in Kolkata.

1.9 It was stated by Sri Rishi Nakhat that his counsin Sri Ravi Prakash Nakhat had some liquid funds and wanted to make some investment. He purchased the gold bar from M/s. Kerala Fashion Jewellery, Mylapore, Chennai on 21.12.2016 on credit basis for Rs.29,29,000/- as per Sale Invoice No. 875 dated 21.12.2016. He paid the amount for this gold bar later only on 13.1.2017 through RTGS. That the same gold bar was sold by him to his cousin Shr Ravi Nakhat on 23.12.2016 for Rs.27,32,857/- as per Sale Invoice No. 003/VC/2016-17 issued in the name of his firm Venus Creation, Kolkata. That he had received payment for such sale from Sri Ravi Nakhat only on 13.1.2017. He stated that he was not aware of the serial number on the gold bar. He collected the gold bar from Kerala Fashion Jewellery on credit and handed over it to Sri Pintoo Kumar to parcel it to Sri Gopal at Kolkata since he was on his way to Tirupati Temple.

1.10 Based on such statements, verifications were made in the accounts of M/s. Kerala Fashion Jewellery. On such scrutiny, it was found that the invoice dated 21.12.2016 supposed to be issued to Sri Rishi Nakhat was not having running serial number. Though the invoice was numbered as 875, there was no reference in their sales book of 874, 873 or any other invoice in 800 series to justify that invoice number 875 was issued in the normal course of business on 21.12.2016. Further, the computer generated ledger copy submitted by M/s. Kerala Fashion Jewellery was found to be created subsequently.

1.11 Statement was recorded from Sri Sunil Cherian, one of the partners of M/s. Kerala Fashion Jewellery, Chennai. In his statement, he stated that they purchased gold bars / bullion from M/s. Shiv Sahai & Sons (India) Pvt. Ltd. Chennai. That they maintained ledgers for inward and outward purchase and sale of gold. That they do not make entries of serial number of the bullion they purchase. That his friend Sri Vimal, Chennai ordered one kilogram gold bar on credit basis and the same was handed over to Sri Vimal as per sale invoice 875 dated 21.12.2016. That he is unaware as to whether it had any serial number. He did not know Sri Rishi of Venus Creation. On further investigation, Sri Vimal gave statement that he had purchased gold bar from M/s. Kerala Fashion Jewellery and handed over the same to Sri Rishi on 26.12.2016. That he did not notice any serial number / tampering of serial number on the gold bar. The manager of M/s. Shiv Sahai & Sons (India) Pvt. Ltd. was also summoned. He stated that they do not sell any gold bar without any serial number or tampered serial number. In his statement dated 18.4.2017, Sri Rishi had explained the purchase of the gold bar from Kerala Fashion Jewellery through Sri Vimal Kumar. He paid the amount through RTGS on 13.1.2017 after receiving payment from his cousin Ravi Nakhat. That when the gold bar was handed over to him, Sri Vimal forgot to give him the bill issued by M/s.Kerala Fashion Jewellery. For this reason the sale invoice issued by him (Venus Creation) was sent through email instead of sending the purchase invoice issued by M/s. Kerala Fashion Jewellery. It was also stated by him that he did not give any security / guarantee while purchasing the gold bar on credit basis. So also that he had not given any acknowledgement for the delivery of the gold bar to him.

1.12 Further investigations relating to the bank accounts of Venus Creation, Kolkata (Sri Rishi Nakhat), it was found that M/s. Venus Creation was having only Rs.10.25 lakhs as bank balance in their accounts as on 21.12.2016. Over a period of six months, there was credit transaction of more than Rs. 5 lakhs, the second highest transaction being Rs.3,37,590/-. Suddenly a huge amount of Rs.20 lakhs was credited into this account on 13.1.2017 by one Sri Sajjan Kumar Jhunjhunwala. This was not supported by any sale or purchase entry in Annexure B of the VAT returns. Another book transaction on 13.1.2017 was found to be credited from Ravi Prakash Nakhat to the tune of Rs.27,32,857/-. On the same day, M/s. Venus Creation made a payment of Rs.29,29,000/- to Kerala Fashion Jewellery through RTGS. Further, on scrutiny of bank accounts of Ravi Nakhat, it was seen that he had only Rs.48,953/- as cash balance when he claimed to have purchased gold bar from Venus Creation on 23.12.2016. Pursuant to such investigations, it appeared to the department that the appellant had contravened various provisions of law relating to export and import of goods and that the goods were liable for confiscation, apart from the appellants being also liable for duty / penalty under the Customs Act, 1962.

2.1 On behalf of the appellants, the ld. Counsel Sri Rathindranath appeared and argued the matter. He submitted that at the very beginning of detaining the parcel itself, the appellants produced necessary documents regarding purchase and ownership of the gold bar. Thus, the appellant has discharged the burden under section 123 of the Customs Act, 1962. In spite of such documentary evidence, the department has mainly relied on the contradictions in the statements recorded from various persons. Even from such statements, the department has not been able to prove that the goods are smuggled in nature. The seizure and absolute confiscation of the gold cannot sustain as these are not smuggled goods. Though the appellant furnished documents for the purchase of the gold, the department failed to give weight to such evidence and concluded that the goods are smuggled by guess work. Merely because the serial number is tampered on the gold bar, it cannot be concluded that the same is smuggled gold.

2.2 The authorities below have relied upon the absence of serial number of gold bar in the invoice issued by Kerala Fashion Jewellery and also by M/s. Venus Creation. It is not a usual practice in trade to mention the serial number of the gold bar in the invoice. The appellant is not at all connected with the tampering of the serial number on the gold bar. The authorities below have wrongly concluded that the documents of purchase of gold bar are concocted / afterthought by the appellant.

2.3 The appellant (Rishi Nakhat) had purchased the gold bar from M/s. Kerala Fashion Jewellery under tax Invoice 875 dated 21.12.2016. There was no fabrication done with regard to this invoice. The payment was made by Rishi Nakhat to M/s.Kerala Fashion Jewellery by RTGS. So also the payment made by Ravi Nakhat to Rishi Nakhat was also through RTGS. This being so, the allegation that the transaction is illegal and intended to cover up black money is without any basis. The gold bar has suffered applicable Customs duty when it was initially brought into India from foreign country. So also the view taken by the department that the gold bar is prohibited goods under section 2(33) of the Customs Act, 1962 is erroneous. When

M/s.Kerala Fashion Jewellery as well as M/s. Venus Creation have stated that they have sold the gold bar, the department ought to have accepted the invoice produced by Ravi Nakhat. Though the serial number of the gold bar is seen tampered, the onus of such tampering cannot be vested upon the appellants. It is crystal clear that the investigation agency has tried to complicate the simple commercial transaction into illegal one by a story built up by them. The department could have asked M/s.Kerala Fashion Jewellery (supplier of the goods) to produce import documents as they are the importers (Para (x) of appeal grounds). The case law relied by the Commissioner (Appeals) to uphold the order passed by the original authority are not applicable to the facts of this case.

2.4 The ld. Counsel relied upon the following case laws to support his contention:-

(i) Ajit Bhosle Vs. Commissioner of Customs (Prev.), Kolkata – 2020 (374) ELT 814 (Tri. Kol.)

(ii) Mandipa Debroy Chowdhury Vs. Commissioner of Customs (Prev.), NER, Shillong – 2020 (374) ELT 133 (Tri. Kol.)

(iii) Commissioner of Customs (Prev.) Lucknow Vs. Rajesh Kumar Seth – 2020 (373) ELT 716 (Tri. All.)

(iv) S.K. Chains Vs. Commissioner of Customs (Prev.), Mumbai – 2001 (127) ELT 415 (Tri. Mum.)

(v) Commissioner of Customs (Prev.), Kolkata Vs. Ashok Kumar Agarwal – 2017 (348) ELT 555 (Tri. Kol.)

2.5 He relied upon para 4 of the decision in CC Vs. Ashok reported in 2017 (348) ELT 555 to argue that it is not necessary to mention the serial number of the gold bar in the invoice. He prayed that the appeals may be allowed and the confiscation of gold bars be set aside.

3.1 The ld. AR Sri S. Balakumar appeared and argued for the department. He supported the findings in the impugned order. It is pointed out by him that the goods in the parcel were declared to be "docs and samples", although, it contained gold bar weighing one kilogram, such mis-declaration itself would show that the appellants were trying to transport the smuggled goods. Apart from this, in the statement given by Sri Naveen, it is seen stated that he told the branch manager of the courier company that the cargo contains 'artificial stones'. There has been much effort to hide the nature of goods in the parcel. If it had not come to light from the scanning of the parcel, the appellants would have succeeded in their smuggling process. While booking the parcel, appellants did not submit any supporting documents. Though they very well knew that the parcel contained gold bar.

3.2 The serial number of the foreign origin gold bar was seen defaced / tampered. Had the gold bar been imported through legal channel, the same would contain the necessary serial number and it would be easy to trace whether duty has been paid on the said gold bar. Such action of defacement of the serial number proves the smuggled nature of gold. Though the appellants contend that they purchased the gold bar from M/s.

Kerala Fashion Jewellery it is stated by proprietor of M/s. Kerala Fashion Jewellery that they have not sold any gold bar with tampered serial number.

3.3 The sale price mentioned in the invoice dated 23.12.2016, emailed by Sri Ravi Nakhat does not match with the prevalent market price of gold on the given date. Though, it is contended that on 21.12.2016 vide Invoice No. 875,Sri Rishi Nakhat purchased the gold from M/s.Kerala Fashion Jewellery, the amount quoted is Rs.29,29,000/- including tax. The rate of the gold prevalent on that day was around Rs.27,68,090/- only. The only logic of mentioning such higher price in the invoice is for the reason that Sri Rishi Nakhat had to pay heavy premium for getting such an invoice. It defies all logic that anyone would come all the way from Kolkata to Chennai to purchase gold for higher amount of Rs.1,31,910/- when he could have procured it from Kolkata at the market rate. This shows that the transaction price as per invoice is only an afterthought to cover up the fraud committed by them. The transaction is only a story concocted in an attempt to legalize the illegal black money cash transaction. If they had been successful in transporting the smuggled gold to Kolkata, there would not have been any invoice at all.

3.4 Even though the sale of the gold is claimed to have been made on 21.12.2016 by Kerala Fashion Jewellery to M/s.Venus Creation, the RTGS payment is seen made only on 13.1.2017 after investigation was started by the department. He referred to sub-clause (xiii) of para 26 of the Order in Original to argue that on perusal of market rate of gold as on 11.1.2017 would show that the market rate exactly coincides with the invoice price of Rs.29,29,000/-. This throws light as to why the invoice dated 21.12.2016 mentioned an exaggerated price of Rs. 29 lakhs. To cover up the black money and the transaction in the smuggled gold that was detained on 27.12.2016, Sri Rishi entered into one more transaction on 13.1.2017. With the assistance of his co-accomplices, he created some forged and fake documents in order to legalize his earlier illegal transaction.

3.5 There are several contradictions in the statements given by different witnesses. Sri Rishi in his statement stated that he himself collected gold bar on 26.12.2016 from Kerala Fashion Jewellery and then handed over it to Pintoo. However, after statements recorded from others, he took a u-turn and stated that he collected gold from Sri Vimal.

3.6 Sri Sunil Cherian had also assisted in creating false and fake documents. On scrutiny of the accounts maintained by Kerala Fashion Jewellery, it was seen that there was no reference to any such transaction of gold bar in the sales book on 21.12.2016. Further, the format of Invoice No. 875 differs from the format of invoice in their payment sales book. The invoice claimed to have been issued by M/s. Kerala Fashion Jewellery is not having running serial number and therefore would not support the case of the appellants. The transaction was the only sole transaction in the gold bars throughout the year as per their accounts. It is also seen that they have charged VAT upon the goods instead of CST. It is stated by them that it happened because the transaction was entered in a hurried manner. They have not quoted the PAN of the buyer which is mandatory for any sale value above Rs.2 lakhs. Further, Sri Sunil Cherian of M/s. Kerala Fashion Jewellery expressed his inability to identify whether the said gold bar was sold from their shop or not. It is also stated by Sunil Cherian that they do not sell gold bar without serial number.

3.7 Annexure B is the VAT returns of Venus Creation which gives the details of sale of goods made by them within the West Bengal. The sale of gold made by Ravi Nakhat is shown as sale of jewellery of Rs.27,32,857/- with tax of Rs.27,058/-. Venus Creation has no license to sell gold bars to individuals. So sale of the gold bar to Ravi Nakhat on 23.12.2016 is shown as sale in form of jewellery in the ledger accounts of Venus Creation. All these would go to show that the claim made by the appellants that the gold was not smuggled and was purchased by proper invoice to be false and untrue. It is also argued by the ld. Counsel that due to tampering of the serial number on the gold bar, it cannot be ascertained whether the gold has suffered Customs duty. This would lead to the conclusion that the gold is smuggled. Further, since the accounting of the same is shown in the ledger accounts of Venus Creation as jewellery, the appellants have no right to claim ownership / redemption of the goods. He prayed that the appeals may be dismissed.

4. Heard both sides and perused the records.

5.1 At the outset, it has to be stated that there is no dispute that the parcel was mis-declared. Although the appellants knew that the parcel contained gold bar, they did not give proper instructions to declare the goods correctly before the Customs authorities. So also they did not furnish necessary documents for transportation of such gold by airlines. Only after the goods were detained by the airlines and coming to know that the airlines has informed the Customs authorities, a mail was sent by Sri Ravi Nakath along with sales invoice dated 23.12.2016. If the gold bar was legally purchased by the appellants, they ought not to have shied away from declaring the goods and furnishing necessary documents while booking the parcel itself.

5.2 Again, undisputedly, the gold bar has foreign markings and is an imported gold bar. The serial number on the gold bar was seen hammered / tampered. Such serial number helps the Customs authorities to trace whether the gold bar has suffered Customs duty. The serial number having been defaced and tampered would raise a strong inference that it is smuggled gold. Further, the serial number is not mentioned in any of the invoices.

5.3 The appellants claim that Sri Rishi Nakath purchased the gold bar from Kerala Fashion Jewellery vide Invoice No. 875

on 21.12.2016. Verification of the accounts of Kerala Fashion Jewellery revealed that the invoice number 875 is not a running serial number. The accounts do not show issue of any invoice in serial number 800 series. Further, there is no explanation why VAT was collected as per invoice instead of CST. Sri Sunil Cherian of Kerala Fashion Jewellery has not able to explain why the serial number on the gold bar is seen tampered. It is also stated by him that he has not sold any gold bar with tampered serial number. Though this invoice is issued to Venus Creation, Kolkata, Sri Sunil Cherian says that he handed over the gold bar to one Vimal. Sri Sunil Cherian has not been able to identify whether the gold bar is the same one sold by him as per invoice 875 on 21.12.2016.

5.4 So also the invoice issued by Venus Creation to Sri Ravi Nakath is not without doubt. On verification of the VAT returns of Venus Creation, it is seen that they have sold gold jewellery to Sri Ravi Nakath for Rs.27,32,857/- with VAT of Rs.27,058/-. There is no evidence of sale of gold bar by Venus Creation to Sri Ravi Nakath. Further, Venus Creation do not have license to sell gold bars to individuals.

5.5 The price of the gold bar shown in these two invoices also is of much interest. Venus Creation has sold the gold bar to his cousin Sri Ravi Nakath on 23.12.2016 for Rs.27,32,857/-. However, this gold bar is seen purchased by Venus Creation from Kerala Fashion Jewellery two days before on 21.12.2016 for

Rs.29,29,000/-. Why should a person in Kolkata take the effort of purchasing gold bar from Chennai for Rs.29,29,000/- and then sell it after two days at a lesser price of Rs.27,32,875/-? The market study by the department of the gold rate prevailing on these dates indicates that the price of gold on 21.12.2016 was around Rs.27,68,090/-. This being so, the logic behind the purchase of gold for a price of Rs.29,29,000/- from Kerala Fashion Jewellery and the sale of it for a reduced rate to Sri Ravi Nakath is only so as to as include the heavy premium paid to M/s. Kerala Fashion Jewellery for getting the invoice after investigation started. The invoice has to be from Chennai as the gold was booked from Chennai.

5.6 Again, Sri Ravi Nakath stated that he had some liquid funds with him and wanted to make an investment for which he decided to purchase gold from his cousin Sri Rishi. On verification of the accounts of Sri Ravi Nakath, it is seen that he had only Rs.48,953/- as cash balance in his account. Later on 13.1.2017, he paid Venus Creation Rs.27,32,857/-.

5.7 Though the appellants contend that they have furnished documents for the purchase of gold and that they have discharged the burden as per section 123 of the Customs Act, 1962, their contentions do not find merit as the invoices are not free from doubt. Section 123 reads as under:-

> "Section 123. Burden of proof in certain cases.–1

(1) Where any goods to which this section applies are seized under this Act in the reasonable belief that they are smuggled goods, the burden of proving that they are not smuggled goods shall be—

(a) in a case where such seizure is made from the possession of any person,—

(i) on the person from whose possession the goods were seized; and

(ii) if any person, other than the person from whose possession the goods were seized, claims to be the owner thereof, also on such other person;

(b) in any other case, on the person, if any, who claims to be the owner of the goods so seized.]

(2) This section shall apply to gold 2[and manufactures thereof] watches, and any other class of goods which the Central Government may by notification in the Official Gazette, specify.

5.8 To attract section 123, the goods must be smuggled goods. The term 'smuggled goods' means goods of foreign origin and imported from abroad. In the present case, there is no dispute that the goods are of foreign origin. As already discussed, the defacing of serial number on the gold bar itself indicates that it is smuggled gold. The appellants who claim the gold to have been legally procured have to produce documents evidencing payment of duty as well as documents evidencing their legal ownership / possession. At the time of booking the parcel, the appellants have not furnished the required documents for transportation of imported goods. The invoices produced by them appear to be concocted and afterthought as established by the department. When the serial number of the gold bar has been defaced and no documents have been furnished for transportation of the goods from Chennai to Kolkata while booking the parcel and the invoices being under the shadow of doubt, the case put up by the appellants that they have purchased the gold in a legal manner fails. The appellants have not been able to discharge their burden of proof required under section 123 of Customs Act, 1962. The decisions relied by the learned counsel for appellants have no relevancy or applicability to the facts of the present case.

5.9 In such circumstances, the plea of appellants to permit redemption of the gold also cannot be considered as they have not been able to establish possession / ownership of the gold bar. The seller Kerala Fashion Jewellery stated that he has not sold any gold bar with tampered serial number. The accounts of Sri Rishi Nakath show that he has sold only gold jewellery to Sri Ravi Nakath. So as per these accounts there is no sale of gold bars by Venus Creation to Sri Ravi Nakhat.

6. From the above discussions, I am of the view that the department has succeeded in establishing the allegations in the Show Cause Notice. The appellants have not been able to establish the defense pleaded by them or their claim of ownership over the gold bar. For such reason, I do not find any infirmity in the order passed by the authority below which requires any interference. Both appeals are dismissed.

(Pronounced in court on 14.07.2021)

(**SULEKHA BEEVI C.S.**)
Member (Judicial)

Rex