CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
PRINCIPAL BENCH-COURT NO. 1

CUSTOMS APPEAL NO. 50309 OF 2025

[Arising out of Order-in-Appeal No. CC(A) CUS/D-1/Air/1328/2024-25 dated 11.9.2024 passed by the Commissioner of Customs (Appeals), New Delhi]

SHRI RAVINDER KUMAR **.....APPELLANT**
407/17, Than Singh Nagar, Garodia Road,
Anand Parbat, Karol Bagh
Delhi 110005

Vs.

COMMISSIONER OF CUSTOMS (AIRPORT &GENERAL) **....RESPONDENT**
New Custom House,
IGI Airport
New Delhi

Appearance:

Shri Ram Chander Sankhla and Shri Rahul Sankhla, Advocates for the Appellant
Shri Rakesh Kumar, Authorised Representative for the Respondent

CORAM:
HON'BLE JUSTICE DILIP GUPTA, PRESIDENT
HON'BLE MR. P. V. SUBBA RAO, MEMBER (TECHNICAL)

FINAL ORDER NO. 50033 /2026

DATE OF HEARING : 01/08/2025
DATE OF DECISION : 08/01/2026

P.V.SUBBA RAO

1. Shri Ravinder Kumar[1] filed this appeal to assail the order dated 11.9.2024[2] passed by the Commissioner of Customs (Appeals), New Delhi in which she partly allowed the appeal of the appellant and modified the Order dated 17.5.2024 passed by the Assistant Commissioner and allowed redemption of the confiscated gold chain

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1 Appellant
2 Impugned order

seized from the appellant on payment of redemption fine of Rs. 50,000/- but confirmed the penalty of Rs. 50,000/- imposed on him.

2. The facts which led to the issue of the impugned order are that on 13.4.2024, the appellant arrived at Delhi from Bangkok by flight AI-333 and passed through the Green Channel of the IGI Airport, New Delhi.

3. When passengers arrive in India from outside India, they have to pass through the Green Channel if they have not brought into India any dutiable goods and if they have brought in any dutiable goods, they must go to the Red Channel, and file the baggage declaration under section 77 of the Customs Act, 1962[3] so that the Customs officer can assess the duty payable on them. By passing through the Green Channel, the passenger constructively declares that he has not brought in any dutiable goods.

4. The appellant was intercepted by the officers after passing through the green channel and on examination an 'unfinished gold chain weighing 72 grams' was found in his bag. It was detained and a detention memo dated 13.4.2024 was issued. The statement of the appellant was recorded under section 108 in which he accepted that the above mentioned item recovered from him belongs to him and that he did not have any document for carrying and possessing it. He agreed with the description, quantity and value assessed by the department and said that he was ready to pay the Customs duty along with fine and penalty. He did not want a Show Cause Notice or personal hearing in the matter.

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3 Act

5. The Assistant Commissioner passed order dated 17.5.2024 absolutely confiscating the gold chain under section 111(d) (i), (j) and (m) of the Act and imposing penalty of Rs. 50,000/- on the appellant under section 112 (a) and (b) of the Act. On appeal, the Commissioner (Appeals) passed the impugned order allowing redemption of the confiscated gold chain on payment of redemption fine of Rs. 50,000/- but upholding the penalty.

6. In this appeal, the appellant does not dispute that he had brought in the gold chain in his bag and that he had walked through the Green Channel without declaring the gold chain. It is his contention that the gold chain was his personal effect and he had the taken the chain with him when he went abroad and only brought it back with him and hence no duty was payable at all.

7. Learned authorized representative for the Revenue raised a preliminary objection that this appeal is not maintainable before this Tribunal as it is an appeal against an order passed by the Commissioner (Appeals) in a matter related to baggage.

8. On the other hand, learned counsel asserted that this appeal is maintainable before this Tribunal since this was not a case of baggage at all. It is his submission that since what was brought into India was the appellant's personal gold chain and as per section 79 of the Act he was entitled to bring in goods duty free and he had no obligation at all to file a baggage declaration under section 77 of Act.

9. We find it necessary to examine the question of maintainability of this appeal first. Section 129A of the Act deals with appeals before this Tribunal. Relevant portions of this section reads as follows:

> **Section 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) a decision or order passed by the Principal Commissioner of Customs or Commissioner of Customs as an adjudicating authority;
> **(b) an order passed by the Commissioner(Appeals) under section 128A ;**
> (c) an order passed by the Board or the Appellate Commissioner of Customs under Section 128 , as it stood immediately before the appointed day;
> (d) an order passed by the Board or the Principal Commissioner of Customs or Commissioner of Customs, either before or after the appointed day, under section 130 , as it stood immediately before that day :
> **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) 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;
> (c) payment of drawback as provided in Chapter X, and the rules made thereunder.
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10. What is evident from section 129A is that if an Order is passed by the Commissioner (Appeals) and it relates to any goods imported or exported as baggage, no appeal would lie before this Tribunal against such an order. An alternative remedy in the form of Revision by the Central Government under section 129DD of the Act is provided in those cases where the jurisdiction of this Tribunal is restricted. This section reads as follows.

> **Section 129DD. Revision by Central Government.-**
> (1) The Central Government may, on the application of any person aggrieved by any order passed under section 128A, where the order is of the nature referred to in the first proviso to sub-section (1) of section 129A , annul or modify such order.

11. The submission of the learned counsel for the appellant is that the gold chain brought in by the appellant was not baggage and no baggage declaration was required to be filed. He drew the attention of the bench to section 79 of the Act and Rules 2 & 3 of the Baggage Rules, 2016 which read as follows:

Section 79. Bona fide baggage exempted from duty. -
(1) The proper officer may, subject to any rules made under sub-section (2), pass free of duty -
(a) any article in the baggage of a passenger or a member of the crew in respect of which the said officer is satisfied that it has been in his use for such minimum period as may be specified in the rules;
(b) any article in the baggage of a passenger in respect of which the said officer is satisfied that it is for the use of the passenger or his family or is a bona fide gift or souvenir; provided that the value of each such article and the total value of all such articles does not exceed such limits as may be specified in the rules.

(2) the Central Government may make rules for the purpose of carrying out the provisions of this section and, in particular, such rules may specify -
(a) the minimum period for which any article has been used by a passenger or a member of the crew for the purpose of clause (a) of sub-section (1);
(b) the maximum value of any individual article and the maximum total value of all the articles which may be passed free of duty under clause (b) of sub-section (1);
(c) the conditions (to be fulfilled before or after clearance) subject to which any baggage may be passed free of duty.
(3) Different rules may be made under sub-section (2) for different classes of persons.

Baggage Rules, 2016

Rule 2. Definitions. -
(1) In these rules, unless the context otherwise requires,-

(i) "Annexure" means Annexure appended to these rules;
(ii) "family" includes all persons who are residing in the same house and form part of the same domestic establishment;
(iii) "infant" means a child not more than two years of age;
(iv) "resident" means a person holding a valid passport issued under the Passports Act, 1967 (15 of 1967) and normally residing in India;
(v) "tourist" means a person not normally resident in India, who enters India for a stay of not more than six months in the course of any twelve months period for legitimate non-immigrant purposes;
(vi) "personal effects" means things required for satisfying daily necessities but does not include jewellery.

Rule 3. Passenger arriving from countries other than Nepal, Bhutan or Myanmar.-

An Indian resident or a foreigner residing in India or a tourist of Indian origin, not being an infant arriving from any country other than Nepal, Bhutan or Myanmar, **shall be allowed clearance free of duty articles in his bona fide baggage**, that is to say, -

(a) **used personal effects and travel souvenirs**; and

(b) articles other than those mentioned in Annexure-I, upto the value of fifty thousand rupees if these are carried on the person or in the accompanied baggage of the passenger:

> **Provided** that a tourist of foreign origin, not being an infant, shall be allowed clearance free of duty articles in his bona fide baggage, that is to say,
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> (a) used personal effects and travel souvenirs; and
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> (b) articles other than those mentioned in Annexure-I, upto the value of fifteen thousand rupees if these are carried on the person or in the accompanied baggage of the passenger:
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> **Provided** further that where the passenger is an infant, only used personal effects shall be allowed duty free.
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> **Explanation.** - The free allowance of a passenger under this rule shall not be allowed to pool with the free allowance of any other passenger.

12. Learned counsel for the appellant placed reliance on the following decisions.

ON JURISDICTION

a. **Amit Kumar** vs. **Commissioner of Customs**[4]

ON MERIT

b. **Pooja Seth** vs. **Commissioner of Customs**[5]
c. **Thanushika** vs. **Principal Commissioner of Customs**[6]
d. **Gulista Khatoon** vs. **Commissioner of Customs**[7]
e. **World Traded Private Limited** vs. **Commissioner of Customs (Import)**[8]

13. It is the submission of the learned counsel for the appellant that as per section 79 of the Act, the proper officer has to allow duty free clearance of personal effects subject to Rules. Rule 3 of the Baggage Rules, 2016 also provides that used personal effects and souvenirs shall be allowed duty free. Rule 2 of the Baggage Rules, however, defines 'personal effects' narrowly excluding 'jewellery' from its scope. This exclusion has been, according to the learned counsel, held *ultra*

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4 Final Order No. 51592 /2021 dated 23.6.2021
5 2025-TIOL-291-HC-DEL-Cus.
6 2025-TIO-291-HC-Mad-Cus
7 2025 (7) TIMI 808-Delhiu High Court
8 2016 (340) EL 174 (Del.)

vires by the Madras High Court in **Tanushita.** He also placed reliance on the above other judgments.

14. It is the submission of the learned counsel that since jewellery can also be part of personal effects and the appellant had only brought back the gold chain which he had taken abroad, it was not dutiable and hence he had no obligation to file a baggage declaration under section 77. Since the gold chain was not required to be declared, the impugned order does not fall, according to the learned counsel, within the scope of order in relation to baggage and therefore, the jurisdiction of this Tribunal is not excluded under the proviso to section 129A (1).

15. We have considered the submissions on both sides on the question of maintainability of this appeal.

16. The impugned order was, undoubtedly, passed by the Commissioner (Appeals) upholding the order of the Deputy Commissioner confiscating the gold chain for not filing a baggage declaration under section 77. Both the Deputy Commissioner and the Commissioner (Appeals) treated the gold chain as baggage and took a view that a declaration had to be filed and since it was not filed, confiscated the gold chain. The impugned order, therefore, relates to the gold chain held to be imported as baggage.

17. The submission of the learned counsel that the gold chain was a personal effect of the appellant and hence was allowed duty free clearance under section 79 and Rule 3 of the Baggage Rules and for that reason, the appellant had no obligation to file a baggage declaration under section 77 will not make any difference. Both

sections 77 and 79 pertain to baggage. Personal effects are also baggage. The submissions of the learned counsel that personal effects are allowed duty free clearance under section 79 (as bonafide baggage) and under the Baggage Rules would also show that all personal effects are baggage. The finding of the Commissioner (Appeals) in the impugned order is that the appellant should have filed a baggage declaration under section 77 of the Act and the submission of the appellant is that there was no obligation to file such as declaration because it was part of his bonafide baggage.

18. At any rate, the gold chain in question was part of the baggage-whether it is treated as a bonafide personal effect or as a gold chain imported by the appellant as a passenger and whether it is held that a declaration should have been filed under section 77 or that there was no such obligation. The impugned order, without doubt, pertains to goods imported as baggage.

19. Therefore, no appeal would lie against the impugned order before this Tribunal as per the proviso to section 129A(1) of the Act.

20. Learned counsel for the appellant relied on the order of a learned member in **Amit Kumar** on the question of jurisdiction. We find that the case was similar and the learned authorised representative had pointed out that this Tribunal would have no jurisdiction in view of the proviso to Section 129A(1). The learned member however, neither considered this submission nor examined the proviso to section 129A(1) nor did he give any finding on the question of jurisdiction. Therefore, the order of the learned member in **Amit Kumar** does not help the appellant. The appropriate remedy

in this case would be a Revision Application under section 129DD of the Act.

21. Since we find that the appeal itself is not maintainable, it is not necessary for us to examine the submissions made by both sides on merits.

22. The Appeal is rejected as not maintainable. The appellant may seek the correct remedy in the form of revision under section 129DD of Act, if he so desires.

[Order pronounced on **08.01.2026**]

(JUSTICE DILIP GUPTA)
PRESIDENT

(P. V. SUBBA RAO)
MEMBER (TECHNICAL)

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