

**IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.**

Date of Hearing/Order: 9.2.2018

Appeal No. C/52934/2016-SM

(Arising out of Order-in-Appeal No. 63-AK-CUS-JPR-2016 dated 9.8.2016 passed by Commissioner of Customs & Central Excise (Appeals), Jaipur)

Ram Niwas Bhari

Appellant

Vs.

CC, Jaipur

Respondent

Appearance

Shri S.P. Rao, Consultant

- for the appellant

Shri G.R. Singh, D.R.

- for the respondent

CORAM: Hon'ble Mr. Ashok Jindal, Member (Judicial)

Final Order No. 50619/2018

Per Ashok Jindal:

The appellant is in appeal against the impugned order wherein goods viz. gold has been confiscated absolutely and the order of confiscation has been upheld by the Id. Commissioner (Appeals).

2. The Id. AR submits that in terms of the proviso to Section 129A (1) of the Customs Act, 1962, the appeal against the order of Commissioner (Appeals) in case of goods imported through baggage is not maintainable before this Tribunal.

3. The Id. Consultant appearing on behalf of the appellant submits that in case of ***CCE & ST Vs. Mohd. Halim Mohd. Shamim Khan*** - 2018

(359) ELT 265 (Tri.-All.) has dealt the case of import of gold through baggage and against the order of Commissioner (Appeals). Therefore, the appeal is maintainable before this Tribunal.

4. I have gone through the provisions of Section 129A(1) proviso of Customs Act, 1962 wherein against the order of Commissioner (Appeals) in case of importation through baggage, the appeal does not lie before this Tribunal. In the case of **Mohd. Halim Mohd. Shamim Khan** (supra) where the said issue of maintainability of appeal was not raised before this Tribunal therefore the said decision is not applicable to the facts of this case. Admittedly, in this case the goods have been imported through baggage, therefore, appeal is not maintainable before this Tribunal against the order of Id. Commissioner (Appeals).

5. In view of above observations, the appeal is dismissed as not maintainable with the liberty to the appellant to move before an appropriate forum for appropriate remedy.

(Dictated & pronounced in open Court)

(Ashok Jindal)
Member (Judicial)

RM