CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
HYDERABAD

SINGLE MEMBER BENCH - COURT NO. – I

Customs Appeal No. 30134 of 2026

(Arising out of **Order-in-Appeal** No.HYD-CUS-000-APP1-129 to 131-25-26 dated 28.11.2025 passed by Commissioner of Customs & Central Tax (Appeals-I), Hyderabad)

Manik Chand Soni .. **APPELLANT**
4-2-51, Old Bhoiguda,
Secunderabad, Hyderabad,
Telangana – 500 003.

VERSUS

Commissioner of Customs .. **RESPONDENT**
Hyderabad - Customs
GST Bhavan, L.B Stadium Road,
Basheerbagh, Hyderabad,
Telangana – 500 004.

APPEARANCE:
Shri Tej Prakash Toshniwal, Advocate for the Appellant.
Shri Kakarala Prasanth Kumar, Authorized Representative for the Respondent.

CORAM: HON'BLE Mr. ANGAD PRASAD, MEMBER (JUDICIAL)

FINAL ORDER No. A/30518/2026

Date of Hearing: 18.08.2026
Date of Decision: 21.09.2026

This appeal has been filed by the appellant, Shri Manik Chand Soni, against the impugned order passed in Denovo proceedings pursuant to the earlier Final Order No. A/30378/2024-CU(SM) dated 03.10.2024 of this Tribunal.

2. The fact in brief is that the dispute relates to 100 grams of gold in the form of kada/bangle claimed by the appellant to have been manufactured out of gold lawfully purchased in the domestic market. The Department treated the said gold as being of foreign/smuggled origin and consequently ordered its confiscation and imposed penalty upon the appellant.

3. The case had earlier travelled to this Tribunal. By Final Order dated 03.10.2024, this Tribunal noticed that the appellant had specifically relied

upon purchase invoices issued by M/s Augmount Enterprises Pvt Ltd., Hyderabad and M/s Preeti Jewellers, Secunderabad, and had claimed that 999 purity gold purchased under those invoices had been used for manufacture of the seized kada/bangle. This Tribunal found that neither the Adjudicating Authority nor the Commissioner (Appeals), had properly examined or verified the said evidence and, therefore remanded the matter for fresh adjudication after examining the documentary evidence. The earlier order did not express any final opinion on merits.

4. Learned Counsel for the appellant submits that the appellant is a registered manufacture; that the seized article did not bear any foreign marking; that the gold was purchased from registered domestic dealers under tax invoices; that the transactions were reflected in the books of account/GST records; and that the article was being sent for job-work. It is submitted that mere purity of gold cannot established that the gold of foreign or smuggled origin.

5. Learned AR, on the other hand, relies upon Section 123 of the Customs Act, 1962 and particularly upon the recent judgment of the Hon'ble Calcutta High Court in Commissioner of Customs (preventive), Kolkata Vs Shri Anil Kumar Soni & Shri Anil Kumar Goud, CUSTA Nos. 30 & 31 of 2025 decided on 31.03.2026, and submits that absence of foreign markings is not conclusive and that once a reasonable belief is formed, the burden lies upon the person from whom notified goods of seized to establish their lawful equitation.

6. Heard agreement of both the sides and perused the records.

7. The principal question which arises for consideration is whether, in the facts of the present case, the Department has established foundation

circumstances necessary for invoking the reverse burden contemplated under Section 123 of the Customs Act and, if so, whether the appellant has satisfactorily discharged such burden.

8. At the outset, this bench takes note of the recent judgment of the Kolkata High Court in Anil Kumar Soni & Shri Anil Kumar Goud, supra. The Hon'ble High Court has held that "reasonable belief" under Section 123 is not dependent upon the geographical location of seizure and that a town seizure cannot, by itself, insulate and person from the operation of Section 123 of the Customs Act, 1962. The test is one of prudence based upon the cumulative circumstances. The Court further held that absence of foreign markings does not Ipso Facto negate a reasonable belief of smuggled origin. The Bench bound by a respectfully follow the aforesaid principle. However, the judgment itself makes it clear that reasonable belief must arise from tangible material and totally of surrounding circumstances and cannot rest merely upon suspension. The Hon'ble High Court applied the reverse burden in that case because the gold weighing about 2 kilo grams was carried in a specially stitched waist belt underneath the carrier's clothes, the courier had made statements under Section 108 admitting foreign origin, the purity was found to be 99.5-99.6%, and the explanation that the gold had been obtained by melting old ornaments was unsupported by any refinery or melting record.

9. The facts before this Bench stand on a materially different footing. In the present matter, the goods under dispute are not unmarked bullion bars secretly concealed on the person of a carrier. What was seized in so far as the present appellant is concerned is stated to be 100 grams of gold in the form of a kada/bangle, which was being transported through a domestic

courier along with other jewellery/gold articles. More importantly, the appellant has, from the investigation stage itself, disclosed the asserted source of the gold and produced the purchase invoices of M/s Augmount Enterprises Pvt Ltd., and M/s Preeti Jewellers. The appellant's stand is that the source material itself was gold of 999 purity purchased in the domestic market and the seized kada was manufactured therefrom. This aspect assumes significance in the light of the ratio in the Shri Anil Kumar Soni / Goud, supra. In the Kolkata High Court case, the crucial defect noticed was an "identity mis-match": the respondent's claimed that 22-carat gold ornaments had merely been melted, whereas, the seized bullion showed purity of 99.5-99.6%; no refinery certificate or melting memo explaining the transaction from 22-carat scarp jewellers to such high-purity bullion was produced. The same reasoning cannot mechanical be applied where the appellant's specific case is that the input gold itself was of 999 purity and had been purchased under identified domestic GST invoices. If the invoices relate to 999 purity gold and the purchases are genuine and accounted for, there is no unexplained convention of 22-carat scrap into 24-carat bullion of the nature which weighed with the Hon'ble Calcutta High Court. Indeed, this was precisely while this Tribunal, while remanding the matter earlier, observed that it was essential to verify the source of the gold and the invoices relied upon by the appellant. The Tribunal specifically noticed that the source of purchase had even been referred to during investigation and held that the claim was required to be examined before arriving at a conclusion that the goods was smuggled.

10. Section 123 of the Customs Act, 1962, undoubtedly places a reverse burden upon the person concerned once goods covered by the provision are seized in the reasonable belief that they are smuggled goods. However,

Section 123 does not permit confiscation on the basis of a presumption upon a presumption. There must first exist material capable of supporting the statutory reasonable belief. Thereafter, the explanation and evidence offered by the claimant have to be objectively evaluated. The proposition advanced by the appellant that absence of foreign markings by itself excludes Section 123 cannot be accepted after the judgment of the Hon’ble Calcutta High Court. At the same time, the converse proposition that every piece of high-purity gold found inland should necessarily be presumed to be smuggled merely because gold is a notified commodity is equally unacceptable. The decision must turn upon the cumulative evidence relating to the manner of carriage, nature of article, statements recorded, documentary provenance, accounting trail and surrounding circumstances.

11. In the present case, the article is admittedly a kada/bangle and there is no finding brought to my notice that it contained any foreign inscription or marking. There is also no allegation comparable to the concealment in a specially stitched waist belt which constituted one of the principal circumstances in the case of Anil Kumar Soni / Goud, supra. Transportation through a domestic courier for stated job-work purposes cannot, without further incriminating material, be equated with physical concealment designed to avoid detection. Further, the documentary defense of the appellant is not a vague plea that the gold had been purchased somewhere in the local market. Specific registered suppliers and specific tax invoices has been identified. Once such objectively verifiable documents are produced, the Adjudicating Authority is required to examine their genuineness and nexus with the transaction rather than reject them merely because the appellant could not establish the complete historical movement of every gram of gold.

12. It is pertinent that the earlier remand was specifically for such verification. If, despite the remand, there is no positive finding based upon enquiry from the issuing dealers that the invoices are false, fabricated or that the transaction recorded therein never occurred, the documentary evidence cannot simply be brushed aside. This Bench may also observe that Section 123 casts upon the claimant the burden of establishing that the goods are not smuggled goods. The burden is undoubtedly stringent, but it is a burden capable of being discharged by preponderance of probability and by reliable documentary and circumstantial material. It does not require any assessee engaged in jewellery manufacture to establish an impossible, uninterrupted physical identity of fungible gold from the stage of purchase until manufacture unless circumstances in the particular case reasonably call for such proof. The decision in Anil Kumar Soni/ Gour, supra, properly understood, does not dispense with examination of the claimant’s documentary evidence. In fact, the Hon’ble High Court found the documents inadequate there because they failed to bridge the factual and scientific gap between the claimant old jewellery and the seized high-purity bullion. The Court held that GST invoices without documentary nexus to the claimed melting/ refinery were insufficient in those peculiar facts.

13. In the present case, however, where the appellant claims purchase of 999 purity gold itself, the reasoning concerning absence of refinery records for converting 22-carat ornaments into 99.6% bullion as no direct application unless the Department first establishes that the invoices relied upon by the appellant do not relate to gold of the description and purity claimed or that they have no credible nexus with his business stock. Thus, although this Bench respectfully apply the legal principle laid down by the Hon’ble Calcutta High Court that absence of foreign markings or the fact of

an inland seizure does not by itself prevent invocation of Section 123, this Bench find that the evidentiary circumstances which justified confiscation in that case is absent in the present appeal.

14. On the evidence before this Tribunal, mere purity of gold, coupled with its transportation through a domestic courier, without proof of clandestine concealment, incriminating admission, foreign markings, falsity of the purchase invoices or other reliable material linking the seized article with smuggled gold, is insufficient the sustain the conclusion reached against the appellant.

15. Therefore, this Bench accordingly hold that the appellant's documentary explanation of domestic acquisition cannot be rejected merely on conjecture. The findings sustaining confiscation and penalty are therefore not sustainable.

16. Consequently, in view of the forgoing discussion, the impugned order, in so far as it relates to present appellant is set aside. The confiscation of 100 grams of gold/kadabangle belonging to the appellant and the penalty imposed upon him is set aside.

17. The appeal is accordingly allowed with consequential relief, if any, in accordance with law.

(Pronounced in open court on 21.09.2026)

(ANGAD PRASAD)
MEMBER (JUDICIAL)

Shirisha