IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH : KOLKATA
REGIONAL BENCH – COURT NO. 1
Customs Appeal No. 77241 of 2019

(Arising out of Order-in-Original No.11/CUS/CC(P)/WB/2019-20 dated 18.07.2019 passed by Commissioner of Customs(Prev), Kolkata)

Shri Sharvan Kumar **: Appellant**
154, Rabindra Sarani, 1st Floor, Kolkata-700 007.

VERSUS

Commissioner of Customs(Prev), **: Respondent**
15/1, Strand Road, Kolkata-700 001.

With

Customs Appeal No. 77242 of 2019

(Arising out of Order-in-Original No.11/CUS/CC(P)/WB/2019-20 dated 18.07.2019 passed by Commissioner of Customs(Prev), Kolkata)

Shri Praveen Khatri **: Appellant**
1/1A, Umakanta Sen Lane, Orbit Skyview Society,
Block-1, Flat No. 6B, Kolkata-700 030.

VERSUS

Commissioner of Customs(Prev), **: Respondent**
15/1, Strand Road, Kolkata-700 001.

APPEARANCE:

Shri Arijeet Chakraborty, Advocate for the Appellant

Shri T.Sulaiman, Authorized Representative for the Respondent

CORAM:

HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO.77121-77122/ 2025

DATE OF HEARING :28.07.2025

DATE OF DECISION:28.07.2025

Order : [Per Shri Ashok Jindal]

Appellants are in appeal against the impugned order seeking immunity from penalty imposed on them.

2. The facts of the case are that the appellant no. 1 was working with M/s. Mohanlal Jewellers, Kolkata during the period November, 2017 as office staff and

appellant no. 2 was working as Manager at M/s. Mohanlal Jewellers, Kolkata during the impugned period.

3. On 22.11.2017, Officers of Customs, P & I, CC(P), WB, Kolkata searched the Kolkata Office premises of M/s. Mohanlal Jewellers when the appellant no. 1 was present during the search nothing incriminating was found.

4. Simultaneous search was conducted by the Customs Officers at 156, Rabindra Sarani, 3rd Floor, Kolkata-700 007 where the appellant no. 1 was present and they recovered three packets carrying 22, 21 & 21 pieces of Gold Biscuits respectively. The total recovered 64 pieces of Gold Biscuits weighing 7464.6 gms valued at Rs. 2,22,44,508/- were seized u/s 110 (1), Customs Act.

5. The appellant no. 1 stated in his statement dated 22/23.11.2017 that the said recovered gold biscuits were received by him in the packed condition from M/s. Maa Ambay Jewellers at the said room at third floor of 156, Rabindra Sarani, Kolkata.

6. And the second appellant also stated that Shri Pradip Gupta of Maa Ambay Jewellers supplied the said recovered gold biscuits. Bother were arrested and thereafter released on bail.

7. Statement of Pradip Gupta was also recorded who stated that he does not even know M/s. Mohanlal Jewellers of Kolkata and also does not know the appellants herein and he had no business transaction with them.

8. On the basis of that investigation a Show Cause Notice was issued to the appellant for absolute confiscation of the gold in question and to impose

penalty on the person involved. The matter was adjudicated. The gold in question was absolutely confiscated and penalties on both the appellants were imposed.

9. Aggrieved from the imposition of penalty appellants are before us.

10. The Ld. Counsel for the appellant submits that in this case the appellants have stated that the gold has been given to them by M/s. Maa Ambay Jewellers through Shri Pradip Gupta who have been exonerated and not allowed for cross examination. Therefore, penalties on the appellants are on the basis of assumption and presumptions. Therefore, no penalties are imposable on the appellants.

11. The Ld. Authorized Representative oppose the contention of the appellants. The gold in question was recovered from the possession of appellant no. 1 who could not produce the necessary documents of procurement of gold from M/s. Maa Ambay Jewellers. In that circumstances, gold has been absolutely confiscated and penalties on both the appellants have been imposed.

12. Heard the parties. Considered the submissions.

13. We find that the gold has been recovered from the possession of appellant no. 1 who failed to explain the procurement of gold through illicit means. In that circumstances, penalty on appellant no. 1 is rightly imposed. Accordingly, the impugned order is not required to be intervene in regard of the penalty imposed on appellant no. 1 namely Shri Sharvan Kumar.

14. As nobody has claimed the ownership of the gold in that circumstances, gold in question has rightly been absolutely confiscated.

15. With regard to penalty imposed on appellant no. 2 Shri Praveen Khatri we find that no role of appellant no. 2 was found in this case as he was not available at the time of recovery of gold from Shri Sharvan Kumar nor he was carrying the gold. In that circumstances, no penalty is imposable on Shri Praveen Khatri. Therefore, penalty imposed in the impugned order of Shri Praveen Khatri is dropped.

16. In these terms appeals are disposed of.

(Operative part of the order was pronounced in open court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

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