IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, KOLKATA
EASTERN ZONAL BENCH : KOLKATA
REGIONAL BENCH - COURT NO.1

Customs Appeal No.75575 of 2023
(Arising out of Order-in-Appeal No.KOL/CUS/CCP/KS/251-255/2023 dated 11.04.2023 passed by Commissioner of Customs (Appeals), Kolkata.)

Md. Altaf
(S/o Izhar Dubawan Bakhara, Azamgarh, Didarganj, Azamgarh, Uttar Pradesh-223226.)

...Appellant

VERSUS

Commissioner of Customs (Prev.), Kolkata
.....Respondent
(15/1, Strand Road, Custom House, Kolkata-700001.)

WITH

Customs Appeal No.75576 of 2023

(Arising out of Order-in-Appeal No.KOL/CUS/CCP/KS/251-255/2023 dated 11.04.2023 passed by Commissioner of Customs (Appeals), Kolkata.)

Munnawar Alam
(S/o Late Sultan Ahmed, Katra Mobarakpur, Azamgarh, Uttar Pradesh-276404.)
...Appellant

VERSUS

Commissioner of Customs (Prev.), Kolkata
.....Respondent
(15/1, Strand Road, Custom House, Kolkata-700001.)

AND

Customs Appeal No.75577 of 2023

(Arising out of Order-in-Appeal No.KOL/CUS/CCP/KS/251-255/2023 dated 11.04.2023 passed by Commissioner of Customs (Appeals), Kolkata.)

Md. Faisal
(S/o Late Mustaque Ahmed, Katra Mobarakpur, Azamgarh, Uttar Pradesh-276404.)
...Appellant

VERSUS

Commissioner of Customs (Prev.), Kolkata
.....Respondent
(15/1, Strand Road, Custom House, Kolkata-700001.)

APPEARANCE

Shri Prithwijit Sharma, Advocate for the Appellant (s)
Shri Tariq Suleman, Authorized Representative for the Revenue

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

FINAL ORDER NO. 77127-77129/2025

DATE OF HEARING : 30.07.2025
DATE OF DECISION : 30.07.2025

Per : ASHOK JINDAL :

The appellants are in appeal against the impugned order imposing penalty on them under section 112(b) of the Customs Act, 1962.

2. The facts of the case are that on being specific information received by the DRI on 27.08.2019 at about 17.20 hrs., the vehicle No.WB 20AZ7971 white coloured Hyundai Verna was coming from Kolkata side to approach the Toll Plaza, Vidyasagar Setu, 2nd Hooghly Bridge was intercepted and the appellants were travelling in the said car who were asked whether they were carrying any contraband items on their person or possession or concealed in the vehicle. Initially all of them denied, but on repeated questioning, they admitted they were carrying smuggled gold bars which are concealed in a specially built cavity made behind the arm rest in the rear seat of the vehicle.

3. On being asked, the appellants could not produce any documents in respect of licit possession, acquisition, transportation or dealing with the gold in question. Thereafter, the investigations started and 8 pieces of rectangular shaped yellow coloured metallic bars and one small yellow coloured metallic cut piece of 24 carat gold of foreign origin, totally weighing 8000.19 gram, valued at Rs.3,19,20,758/- were recovered. The said items were sent for C.R.C.L. and as per the test report the gold contained purity of 99.8% and 99.6%. Therefore, on reasonable belief that the gold was of foreign origin and smuggled one, a show cause notice was issued to the appellants for absolute confiscation thereof and to impose penalties on the appellants. Nobody

claimed the ownership of the gold in question, therefore, the adjudicating authority absolutely confiscated the gold in question and imposed various penalties on the appellants under section 112(b) of the Customs Act, 1962. The appellants are before us against the imposition of penalty thereon. Against the said order, the appellants are in appeal and contesting the imposition of penalties on them.

2. The Ld.Counsel for the Appellants submits that the appellants under bona fide belief had taken the vehicle for traveling and they were not aware that any gold has been put in the vehicle, therefore, as the appellants are innocent and not claiming the gold, the penalties on the appellants are not imposable.

3. Heard the parties, perused the record.

4. We find that during the investigation the appellants were found carrying the impugned gold in question in the vehicle they were travelling and which was concealed in a specially built cavity made behind the arm rest in the rear seat of the vehicle. Admittedly the appellants were not carrying any licit documents for procurement of the gold. In that circumstances, the onus lies on the appellants to prove that the gold in question has been possessed by them through licit means which the appellants failed to do so. Therefore, the adjudicating authority has rightly confiscated the gold in question and imposed penalties on the appellants under section 112(b) of the Customs Act, 1962. Hence, there is no requirement to interfere with the impugned order, the same is upheld.

5. Accordingly, the appeals filed by the appellants are dismissed.

(Operative part of the order was pronounced in the open Court.)

Sd/
(ASHOK JINDAL)
MEMBER (JUDICIAL)

Sd/
(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

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