

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH: KOLKATA**

REGIONAL BENCH – COURT NO. 1

Customs Appeal No. 75874 of 2021

(Arising out of Order-in-Appeal No. KOL/CUS/CCP/AKR/572/2021 dated 29.07.2021 passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

Shri Ashish Halder

: Appellant

Son of Late Joykrishna Halder,
Vill.: Palpara, Khantura, P.O.: Khantura,
P.S.: Gobardanga, 24 Parganas (North),
PIN – 743 273

VERSUS

Commissioner of Customs (Preventive)

: Respondent

Custom House, 3rd Floor, 15/1, Strand Road, Kolkata,
PIN – 700 001

APPEARANCE:

Shri Nilotpal Chowdhury, Advocate, for the Appellant

Shri Sourabh Chakravorty, Authorized Representative, for the Respondent

CORAM:

HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)

FINAL ORDER NO. 75490 / 2026

DATE OF HEARING / DECISION: 08.04.2026

ORDER:

The appellant is in appeal against the impugned order wherein a penalty of Rs.6,00,000/- has been imposed on him under Section 112(b) of the Customs Act, 1962.

2. The appellant herein was intercepted near Sealdah, who was found to be carrying 12 (twelve) pieces of gold biscuits, the total weight thereof being 1199.570 grams. These gold biscuits were found to be having foreign inscriptions on them and bearing purities between 99.6 % to 99.8 %. Admittedly, the appellant was not carrying any document in support of possession of the said gold or from where the same had been procured.

3. During the course of investigation, the appellant claimed that one person by the name of Md. Latifuddin was the actual owner of the said gold and that the appellant was acting as a mere carrier for its supply. He also provided the mobile number of Md. Latifuddin.

4. Further investigation revealed that the said number declared by the appellant as belonging to Md. Latifuddin, is actually registered in the name of Md. Iyar Ali Mondal, Swarupnagar, North 24 Parganas.

5. A Show Cause Notice was issued to the appellant for absolute confiscation of the gold in question and to impose penalty on the appellant.

5.1. After adjudication, the gold in question has been absolutely confiscated and a penalty of Rs.6,00,000/- has been imposed on the appellant under Section 112(b) of the Customs Act, 1962.

5.2. On appeal, the Ld. Commissioner (Appeals), by way of the impugned order, has upheld the order passed by the Id. adjudicating authority.

5.2. Against the order of imposition of penalty on the appellant, the appellant is before me.

6. The Ld. Counsel appearing on behalf of the appellant submits that it is a case where the appellant is a carrier of the gold on behalf of Md. Latifuddin, whose mobile number was provided by the appellant; that the said mobile number was found to be in the name of Md. Iyer Ali Mondal by the investigating officers; the said Md. Iyer Ali Mondal was called during investigation, who stated that he was not the owner of the gold and was exonerated; it is submitted that the said person was also not made a party to the Show Cause Notice. He submits that the appellant being a

poor fellow and only a carrier, penalty is not imposable on him.

7. Heard the Ld. Counsel for the appellant.

8. I find that it is a case of smuggling of gold. The appellant was not having any document, being a carrier of such a huge value of gold. In terms of Section 123 of the Customs Act, 1962, gold is a notified item and thus, the person who is in possession of the gold is required to prove the source of procurement thereof, which the appellant has failed to do. In these facts and circumstances, I hold that the gold in question has been rightly absolutely confiscated by the Id. adjudicating authority and penalty has also been rightly imposed on the appellant under Section 112(b) of the Customs Act, 1962.

8.1. However, I take note of the fact that the appellant is only a carrier of the gold and earning a small amount for carrying the gold. In such circumstances, the penalty imposed on the appellant under Section 112(b) of the Act is reduced to Rs.1,00,000/- (Rupees One Lakh only).

9. In these terms, the appeal is disposed of.

(Dictated and pronounced in the open court)

Sd/-

(ASHOK JINDAL)
MEMBER (JUDICIAL)

Sdd