IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, KOLKATA

REGIONAL BENCH – COURT NO.1

Customs Appeal No.75340 of 2026

(Arising out of Order-in-Appeal No.155/GHY(A)/COM/CUS/SH/2026 dated 30.03.2026 passed by Commissioner of Customs (Appeals), Guwahati)

Deepak Verma
(House No.20, Mata Rani Mohalla, Khanna-141401)

Appellant

VERSUS

Commissioner of Customs (Preventive), Shillong
(NER, Customs House, 110, M.G.Road, Shillong, Meghalaya-793001)

Respondent

WITH

Customs Appeal No.75342 of 2026

(Arising out of Order-in-Appeal No.155/GHY(A)/COM/CUS/SH/2026 dated 30.03.2026 passed by Commissioner of Customs (Appeals), Guwahati)

Daleep Kumar Verma
(House No.20, Mata Rani Mohalla, Khanna-141401)

Appellant

VERSUS

Commissioner of Customs (Preventive), Shillong
(NER, Customs House, 110, M.G.Road, Shillong, Meghalaya-793001)

Respondent

Appearance:

Shri Vikrant Kackria, Advocate for the Appellant
Shri Faiz Ahmed, Authorized Representative for the Appellant

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

FINAL ORDER NO.75714-75715/2026

DATE OF HEARING : 26 MAY 2026
DATE OF DECISION : 26 MAY 2026

Per Ashok Jindal :

The appellants are in appeals against the impugned order wherein the gold ornaments have been absolutely confiscated and the penalties were imposed on the appellants.

2. The facts of the case are that both the appellants have been intercepted by the CISF and later on handed over to the Customs

Officials suspecting them as smuggling the imported gold. The gold was legally procured by the appellants but seized by the respondent and the details of the same are as under:-

S. No.	Name of the Article	Weight In Grams	Owner of the article	Procured from and details of bills.
1.	Chain of Gold	330.58	Daleep Kumar Verma	Naresh Jewellers, Khanna (Punjab) Bill No. GST-48 dated 02.07.2024 (Page no.
2.	Chain of Gold	313.55	Deepak Verma	Naresh Jewellers, Khanna (Punjab) Bill no. GST-51 dated 04.07.2024
3.	Gold Bangle	265.16	EMERALD TRADERS	Goods were received for **job work** and handed over to Daleep Kumar Verma for transportation to Khanna by the Radhe Krishan Jewellers Vide Challan No. JW-9 dated 23.07.2024. Page No. of the present compilation.
4.	Gold Bangle	320.24	EMERALD TRADERS	--do--
5.	Gold Bangle	168.18	EMERALD TRADERS	--do--
6.	Gold Bangle	47.71	EMERALD TRADERS	--do--
7.	Gold Bangle	69.78	EMERALD TRADERS	--do--
	Total	1515.20		
DETAILS OF JOB WORK WITH EMERALD TRADERS				
1.	Received from Emerald Traders Gold	1011.54	Emerald Traders	Challan No. JW-6 dated 18.07.2024.
2.	Silver	851.37	Emerald Traders	Challan No. JW-5 dated

				18.07.2024.
3.	Returned After Job Work by Radhe Krishan Jewellers	139.4 (Gold) 851.37 (Silver)	Returned to Emerald Traders	Challan No. JW-8 of the Radhe Krishan Jewellers.
4.	Returned After Job Work by Radhe Krishan Jewellers through Daleep Kumar Verma	872.14 (Gold)	Returned to Emerald Traders	Challan No. JW-9 of the Radhe Krishan Jewellers. **(Seized by the Department)**

2.1 That, M/s Radhe Krishan Jewellers, Daleep Kumar Verma (Partner of Radhe Krishan Jewellers), Deepak Verma (Borther of Daleep Kumar Verma) had filed separate applications for provisional release of above stated seized goods. All the three applications were rejected. All the three applicants had filed their first appeal before the Commissioner of Customs (Appeals), Guwahati and the same were rejected. The orders in appeals were challenged before this Tribunal.

2.2 That, meanwhile the show cause notice was issued to the appellant. It is important to say that no show cause notice was issued to M/s Radhe Krishan Jewellers, though the more than 50% seized goods belong to it.

2.3 That the same was replied by both of the appellants as on 02.03.2025, which was duly served upon the respondent.

2.4 That, this Tribunal had decided all the three appeals vide its order dated 31.07.2025 in Customs Appeal No.C/75895-75897/2025 and directed the adjudicating authority to take up the adjudication process and complete the same within 30 days from the date on which, the appellants file their reply to the show-cause notice along with all the documentary evidence relied upon by them.

2.5 The Order in Original was passed by the adjudicating authority as on 07.11.2025 though the reply to the show cause notice was duly served upon him as on 09.05.2025.

2.6 That said order was challenged before Ld. Commissioner of Customs (Appeals), Guwahati and both the appeals were rejected by the Ld.Appellate Authority vide impugned order dated 30.03.2026.

2.7 Against the said order, the appellants are before us.

3. The ld.Counsel for the appellants submits that the show cause notice has been issued to the appellants on presumptions and surmises and has no evidence to corroborate the allegations. At the outset, all allegations leveled in the show cause notice are denied as same are devoid of any merits, which was further affirmed in Order in Original and Order in Appeal also.

3.1 He submits that the Customs had recovered gold items and at the very moment the appellants could not provide the bills of those articles, then it was presumed by the Custom Officials that the said articles are illegal in the eyes of law. Later on, the Appellants has provided the copies of the bills to the authorities and the same were duly verified by the Customs Authorities, Ludhiana (Punjab). The verification itself proves that the transaction was genuine and the said ornaments were procured from domestic sources, hence the allegation of smuggling of foreign gold has no legs. By which, they were taken to the departments and whole interrogation was done on them, to which the appellants replied honestly. The Appellants has discharged the burden casted upon him under Section 123 of the Customs Act.

3.2 It is further submitted that no statement of Emerald Traders who was the owner of 872.14 grams of gold, was recorded by the respondent during investigation, for which the logical presumption is that the respondents have no doubt about those transactions, and without doing so, the absolute confiscation is void ab initio.

3.3 He further submits that the appellants have filed an application for provisional release of the seized goods. It is also submitted that the Goldsmith (department's witness) stated that the gold was of high purity and he never stated that the gold seized was smuggled of foreign origin.

3.4 Further, he submits that as per show cause notice Panchas were witnesses for proceedings as stated in Panchanama or in show cause notice, wherein it has been clearly established that the appellants were not able to produce any bill, whereas one of the Panchas has admitted that they had produced the bills before the authorities and stated that he doesn't remember, Hence, the testimony of the witnesses cannot be relied upon. He submits that Pancha (MR. Mutum Rohen Singh), specifically and categorically stated that he does not know any other language than Manipuri. But on Panchanama his signature in English and in good flow. Hence, his testimony cannot be relied upon. 90% of answers were given by the officer of the Customs who was present with him. Maximum of his answers were "he does not know".

3.5 Further, it is submitted that it is pertinent to mention, at the later stage the appellants were able to show the bills to the Custom Officials, moreover, they were able to produce the jeweller from whom they bought those articles, who also gave their statement to the officials, but the same was not considered by the officers as well as by the adjudicating and appellate authorities.

3.6 That furthermore, it would be relevant to mention that the foreign articles and rough/raw gold tend to have specific weight of 100 gms, 1 KG. etc. in standard weight, which is not the case in the present scenarios. All of this, done only because solid evidence could not be produced but the same was furnished to the officers, which remained neglected by them, resulting in present proceedings against the appellants.

3.7 He further submits that no Foreign Markings were found and none of the seized material was found in standard weight as per normal foreign manufactured gold/town seizure. In support of this contention, he relies on the decision of this Tribunal in the case of CC (Preventive), Shillong Vs. Manisha Devi Jain in Appeal No.C/75931/2018 vide Final Order No.77118/2018 dated 04.12.2018 and in the case of J Suresh vs CC (Prev), Vijayawada in Appeal No. 30571/2021 vide Final Order No.A/30123/2022 dated 16.11.2022, the Hyderabad Bench of this Tribunal held that in the normal trade practice biscuits are available weighing 100 gms or 1 kg for international trade, against the same departmental appeal was dismissed by the Hon'ble High Court of

Andhra Pradesh. It is an admitted fact that there is no foreign marking on the goods impounded and later on absolutely confiscated.

3.8 He further submitted that the appellants have provided all the evidences regarding genuineness of all the transactions including GST and Income tax/TDS data all bills for legitimate purchases by the persons. The revenue department had failed to prove that such transactions were not genuine by any piece of evidence. He further relies on the decision of this Tribunal in the case of M/s DI Gold Designer Jewelley v/s CC(Prev) Delhi in Customs Appeal No. 51058 of 2020 vide Final Order No.52094-52096/2021 dated 22.12.2021, wherein it has been held as under:-

> *"In the present case, there is nothing to explain as to why the VAT/Tax, the purchase orders, the job orders, the delivery challans etc. have not been considered by the Revenue."*

3.9 Further, the ld.Counsel for the appellants submits that in the show cause notice, the Custom officials have heavily relied upon the fact that the appellants could not produce the bills of the articles when the same was asked by them in hurry and urgency, and it is not common for a layman to carry the bills and invoices of the articles which they have bought to everywhere. There is no other evidence with the officials regarding the smuggling of goods.

3.10. It is further submitted that as per Section 123 of the Act, burden of proving that goods are not smuggled goods is upon the person from whose possession the goods were seized or on the owner of the goods, as the appellants have produced before the officers of the Customs, Imphal and further on the same day the Customs authorities have visited the business premises of the supplier in Khanna (Punjab) and verified all the transactions and nothing adverse was reported by them. The appellants have proved that material in question was indigenously procured, hence, the burden of proof under section 123 of the Customs Act was duly discharged by the appellants. Therefore, the show cause notice may be dropped. To support of his contention, he relies on the following decisions :

(i) Balanagu NagaVenkata Raghavendra v/s CC Vijayawada 2021(378) ELT 493 (Tri.-Hyd.)

(ii) M/s DI Gold Designer Jewelley v/s CC(Prev) Delhi in Customs Appeal No. 51058 of 2020 vide Final Order No. 52094-52096/2021 dated 22.12.2021.

(iii) Daleep Kumar Verma v/s CC (Preventive), Shillong (Tri-Kol) decided vide Final order No 75300-75302/2023 DATED 4-5-2023.

(iv) J Suresh V/s Commissioner of Customs decided vide Final Order No A/30123/2022 DATED 16-11-2022

4. The ld.A.R. for the Revenue has justified the impugned order.

5. Heard both the parties and considered the submissions.

6. We find that in this case, at the time of seizure of the goods in question, the appellants could not provide the documents pertaining the licit document. Therefore, it was presumed that the said articles have been smuggled without any observations as there is no foreign marking on the gold. None of the seized materials was in standard weight as per

normal form of manufactured gold/town-seizure. The goods were not seized in the Customs area. Moreover, we find that on 24.07.2024 at around 12.05 hrs., the appellants were apprehended at Imphal Airport, having the goods in question in their baggage, but they could not produce any documents at that time and the samples were drawn and the statements were also recorded and while recording the statements, it was stated by the appellants that they were engaged with their family business of gold jewellery in the name of M/s Naresh Jewellers in Punjab since 2004 and came to Manipur for the first time in 2018 for running their business in jewellery items in the name of M/s Shreeji Traders and Manufactures and the raw materials were procured from Punjab and the final job work was done in Manipur. Sales were primarily done locally in Manipur. The said business continued for around 6-7 months and thereafter, it is discontinued. It was again started in March, 2024. The appellants firm is having a GST registration and the appellants explained that the said jewellery were procured from the domestic market during the course of interception itself. It was stated that the gold are owned by M/s Emerald Traders, but no statements were recorded from him. Moreover, in Panchas has stated that he does not know any other language than Manipuri, but he signed in Panchas in English in good flow.

7. The appellants have produced all the invoices of the goods in question and the procurement thereof, on which, GST has been paid. Challans thereof, were produced during the course of hearing. For better appreciation of facts, the same are extracted below :

GSTIN 03AOTPV0274G1Z5 OFFICE COPY Phone 99884-2233

E-mail 10

Emerald Traders

1st Floor, Shop No.457, Sarafa Bazar
Khanna-141401 (Pb.)

DELIVERY CHALLAN CUM RETURNABLE GATEPASS

For movement of inputs or capital goods under Rule 4(5) (a) of Cenvat Credit Rules 2004 from one factory to another factory for further processing or any other purpose & subsequent return to the parent factory

PART-1

Name of Job Worker With	CHALLAN	
Radhe Krishan Jewellers	CHALLAN NO	JW-5
Checkon Road, Hatta Makha Leikai,		
Imphal East	CHALLAN DATE	18-07-2024
GSTIN 14ABIFR5192F1Z3	VEHICLE NO.	

Sr	Description of goods	CETSH	Qty.	Unit	Est Value	Nature of Processing to be done
1	Silver Bar		851.370	Gm.	79177.00	FOR MACHINING JOB WORK

EXPECTED RETURN WITH IN 180 DAYS

Remark

EMERALD TRADERS

Authorised...

PART - II

(To be filled in by the Processing Factory (Job Worker) in Original & Duplicate Challans)

1 Date & Time of Despatch of Finished Goods to the arent factory	
2 Quantity despatched (Nos./ Weight/ Liter/ Meter)	
3 Nature of Processing/ Manufacturing done	
4 Quantity of waste material return to the parent factory	
5 Remarks (if any)	

Place..

Date..

(Signature of Processor)
(Name of the Factory)

The second Part of the challan should be completely filled. Stamped and signed by owner / partner as per cenvat issue rules 4(5) (a) otherwise duty will be debit in your account.

GSTIN : 03AGTPV0274G1Z5 OFFICE COPY Phone : 99884-22336

E-mail

Emerald Traders

1st Floor, Shop No.457, Sarafa Bazar

Khanna-141401 (Pb.)

DELIVERY CHALLAN CUM RETURNABLE GATEPASS

For movement of inputs or capital goods under Rule 4(5) (a) of Cenvat Credit Rules. 2004 from one factory to another factory for further processing or any other purpose & subsequent return to the parent factory

PART-1

Name of Job Worker With	CHALLAN	
Radhe Krishan Jewellers Checkon Road, Hatta Makha Leikai,	CHALLAN NO	JW-6
Imphal East	CHALLAN DATE	18-07-2024
GSTIN : 14ABIFR5192F1Z3	VEHICLE NO	

Sr	Description of goods	CETSH	Qty	Unit	Est Value	Nature of Processing to be done
1	Raw Gold		1011.540	Gm.	7283088.00	FOR MACHINING JOB WORK

EXPECTED RETURN WITH IN 180 DAYS

Remark

FOR EMERALD TRADERS

Authorised Signatory

PART-II

(To be filled in by the Processing Factory (Job Worker) in Original & Duplicate Challans)

1. Date & Time of Despatch of Finished Goods to the arent factory	
2. Quantity despatched (Nos / Weight/ Liter/ Meter)	
3. Nature of Processing/ Manufacturing done	
4. Quantity of waste material return to the parent factory	
5. Remarks (if any)	

Place ....

Date ....

(Signature of Processor)
(Name of the Factory)

The second Part of the challan should be completely filled. Stamped and signed by owner / partner as per cenvat issue rules 4(5) (a) otherwise duty will be debit in your account.

GSTIN 14ABFR5192F123 OFFICE COPY Phone 9877856112 13

E-mail rkjewellers24@gm...

Radhe Krishan Jewellers

Checkon Road, Hatta Makha Loikai

Imphal East

DELIVERY CHALLAN CUM RETURNABLE GATEPASS

For movement of inputs or capital goods under Rule 4(5) (a) of Cenvat Credit Rules 2004 from one factory to another factory for further processing or any other purpose & subsequent return to the parent factory

PART-1

Name of Job Worker With	CHALLAN	
Emerald Traders 1st Floor, Shop No. 457, Sarafa Bazar Khanna - 141401 (M) +91-99884-22336 GSTIN	CHALLAN NO	JW-8
	CHALLAN DATE	19-07-2024
	VEHICLE NO	

Sr	Description of goods	CETSH	Qty.	Unit	Est Value	Nature of Processing to be done
1	Gold Ornaments Job Work		139.400	Gm.		FOR MACHINING JOB WORK
2	Silver Ornaments (7113) Job Work		851.370	Gm.		FOR MACHINING JOB WORK

EXPECTED RETURN WITH IN 180 DAYS

Remark

For Radhe Krishan Jewellers

Auth. Signatory

PART-II

(To be filled in by the Processing Factory (Job Worker) in Original & Duplicate Challans)

1 Date & Time of Despatch of Finished Goods to the parent factory	
2 Quantity despatched (Nos./ Weight/ Liter/ Meter)	
3 Nature of Processing/ Manufacturing done	
4 Quantity of waste material return to the parent factory	
5 Remarks (if any)	

Place

Date

(Signature of Processor)

(Name of the Factory)

The second Part of the challan should be completely filled. Stamped and signed by owner / partner as per cenvat issue rules 4(5) (a) otherwise duty will be debit in your account

GSTIN [illegible] OFFICE COPY Phone [illegible]

E-mail [illegible]

Radhe Krishan Jewellers

Checkon Road, Hatta Makha Leikai

Imphal East

DELIVERY CHALLAN CUM RETURNABLE GATEPASS

For movement of inputs or capital goods under Rule 4(5)(a) of Cenvat Credit Rules, 2004 from one factory to another factory for further processing or any other purpose & subsequent return to the parent factory

PART-1

Name of Job Worker With	CHALLAN	
Daleep Kumar Verma	CHALLAN NO	JW-9
House No 20	CHALLAN DATE	23-07-2024
Mata Rani Mohalla	VEHICLE NO	
Khanna		
GSTIN		

Sr	Description of goods	CETSH	Qty	Unit	Est Value	Nature of Processing to be done
1	Gold Ornaments (semi finish bangles) 24k		872.140	Gm	6279408.00	FOR MACHINING JOB WORK

EXPECTED RETURN WITH IN 180 DAYS

Remark

For Radhe Krishan Jewellers
FOR RADHE KRISHAN JEWELLERS

Auth. Signatory

PART-II

(To be filled in by the Processing Factory (Job Worker) in Original & Duplicate Challans)

1. Date & Time of Despatch of Finished Goods to the parent factory	
2. Quantity despatched (Nos / Weight/ Liter/ Meter)	
3. Nature of Processing/ Manufacturing done	
4. Quantity of waste material return to the parent factory	
5. Remarks (if any)	

Place ....

Date ....

(Signature of Processor)
(Name of the Factory)

The second Part of the challan should be completely filled. Stamped and signed by owner / partner as per cenvat issue rules 4(5) (a) otherwise duty will be debit in your account.

8. The sources of procurement of the gold in question, were produced, which are extracted below :

Form GST INV -1 (TAX INVOICE) OFFICE COPY

GSTN: 03ACYPK9713A1ZL
Pan - ACYPK9713A

Naresh Jewellers

Ph. : +91-1628-220588
M. : +91-99801-71901

Shop No. 457, Saraian Bazar, Khanna-141401, Distt. Ludhiana (Pb.)
e-mail : nareshjewellers@yahoo.com

Sold: Daleep Kumar Verma
Khanna
GSTIN PAN : AGMPV3825A

Bill No GST-48 CREDIT
DATE 02-07-2024

Description of Goods		Pcs	Purity	Gr. Wt. (In Gms)	D/St. Wt. (In Ct)	D/St. Rate (In Rs)	Net Weight (In Gms)	Polish & Making	Metal Rate	Amount
Gold Chain	71131940		24k	330.050	0.00	0.00	330.050	6.600	7220.00	24,30,613.00
				330.050			330.050		Total	24,30,613.00

Labour		0.00
CGST @	1.500%	36,459.00
SGST @	1.500%	36,459.00
IGST @		0.00
Discount/ R off		0.00

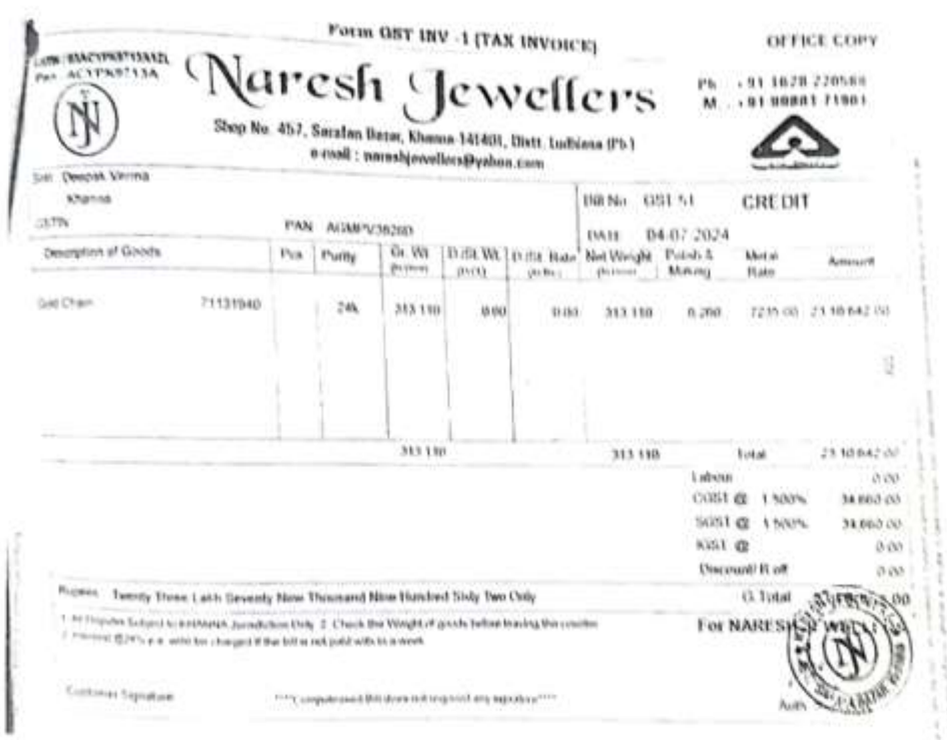
Rupees : Twenty Five Lakh Three Thousand Five Hundred Thirty One Only G.Total 25,03,531.00

1. All Disputes Subject to KHANNA Jurisdiction Only 2. Check the Weight of goods before leaving the counter
3. Interest @24% p.a. will be charged if the bill is not paid with in a week

For NARESH JEWELLERS

Customer Signature ****Computerised Bill does not required any signature****

Auth.



Form GST INV -1 (TAX INVOICE)

OFFICE COPY

Naresh Jewellers

Shop No. 457, Saralan Bazar, Khanna-141401, Distt. Ludhiana (Pb.)

e-mail : nareshjewellers@yahoo.com

Sh. Deepak Verma
Khanna

PAN AGMPV3828D

Bill No. GST 51 CREDIT

DATE 04.07.2024

Description of Goods		Pcs	Purity	Gr. Wt	D.(St) Wt.	D.(St) Rate	Net Weight	Polish & Making	Metal Rate	Amount
Gold Chain	71131940		24k	313.110	0.00	0.00	313.110	0.200	7235.00	23,10,642.00
				313.110			313.110		Total	23,10,642.00

Labour 0.00

CGST @ 1.500% 34,660.00

SGST @ 1.500% 34,660.00

IGST @ 0.00

Discount/ R.off 0.00

Rupees Twenty Three Lakh Seventy Nine Thousand Nine Hundred Sixty Two Only

G. Total

For NARESH JEWELLERS

Customer Signature

Auth.

9. As the appellants have produced the documents for procurement of goods during the course of hearing before the ld.Adjudicating Authority, but no credence was given to them. There is no foreign marking on the goods in question. Moreover, the goods are not standard weight and not having the purity to establish that the goods in question are of smuggled in nature of foreign origin.

10. In that circumstances,, the investigating agency has failed to discharge their onus that the goods in question are of smuggled in nature in terms of Section 110 of the Customs Act, 1962 for seizure thereof. Moreover, the appellants have discharged their onus under Section 123 of the Customs Act, 1962 by producing the documents of

procurement of the said goods in their possession. In that circumstances, it cannot be said that the appellant has not discharged their onus under Section 123 of the Act, 1962. Therefore, the duty cast upon on the Revenue to prove that the goods in question are of foreign origin and smuggled goods, which the Revenue has failed to do so.

11. In that circumstances, we do not find that the goods are liable for confiscation, consequently, the confiscation of goods in question is set aside and no penalty is imposable on the appellant.

12. Thus, we hold that the goods in question are liable to be released to the appellant being genuine owner of the goods.

13. In the result, we set aside the impugned order and allow the appeals with consequential relief, if any.

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

(Ashok Jindal)
Member (Judicial)

(K.Anpazhakan)
Member (Technical)

mm