CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

NEW DELHI

PRINCIPAL BENCH – COURT NO. – IV

Customs Appeal No. 51021 of 2025

[Arising out of Order-in-Appeal No. IND-EXCUS-000-APP-326 to 332-2024-25 dated 25.03.2025 passed by the Commissioner of Customs, CGST & Central Excise (Appeals), Indore]

Shri Anand Neema **...Appellant**
s/o Brijmohan Neema,
27, Johri Palace Colony,
Sudama Nagar, Annapurna Road,
Indore – 452009, Madhya Pradesh

VERSUS

Commissioner of Customs - Indore **...Respondent**
B-Zone, 3rd Floor, Village – Piplyakumar,
Nipaniya, Indore,
Madhya Pradesh - 452001

APPEARANCE:
Shri Ankur Upadhyay, Advocate for the Appellant
Shri N.M. Goyal, Authorized Representative for the Respondent

WITH

Customs Appeal No. 51266 of 2025

[Arising out of Order-in-Appeal No. IND-EXCUS-000-APP-326 to 332-2024-25 dated 25.03.2025 passed by the Commissioner of Customs, CGST & Central Excise (Appeals), Indore]

Shri Suresh Gidde **...Appellant**
Nakoba Khadi, AP-Tadawale,
Tal-Aatpadi, Dist.-Sangli,
Maharashtra - 415301

VERSUS

Commissioner of Customs - Indore **...Respondent**
B-Zone, 3rd Floor, Village – Piplyakumar,
Nipaniya, Indore,
Madhya Pradesh - 452001

APPEARANCE:
Shri Vidyadhar S Apte, Advocate for the Appellant
Shri N.M. Goyal, Authorized Representative for the Respondent

WITH

Customs Appeal No. 51282 of 2025

[Arising out of Order-in-Appeal No. IND-EXCUS-000-APP-326 to 332-2024-25 dated 25.03.2025 passed by the Commissioner of Customs, CGST & Central Excise (Appeals), Indore]

Shri Navanath Chavan **...Appellant**
Yamaji Patalachi Wadi,
Sangli, Maharashtra - 415301

VERSUS

Commissioner of Customs - Indore **...Respondent**
B-Zone, 3rd Floor, Village – Piplyakumar,
Nipaniya, Indore,
Madhya Pradesh - 452001

WITH

Customs Appeal No. 51283 of 2025

[Arising out of Order-in-Appeal No. IND-EXCUS-000-APP-326 to 332-2024-25 dated 25.03.2025 passed by the Commissioner of Customs, CGST & Central Excise (Appeals), Indore]

Shri Balasaheb Mahadik **...Appellant**
Near Talim, Hatnoli,
Sangli, Maharashtra - 416314

VERSUS

Commissioner of Customs - Indore **...Respondent**
B-Zone, 3rd Floor, Village – Piplyakumar,
Nipaniya, Indore,
Madhya Pradesh - 452001

APPEARANCE:
Shri Sujay Kantawala, Advocate for the Appellant
Shri N.M. Goyal, Authorized Representative for the Respondent

WITH

Customs Appeal No. 51284 of 2025

[Arising out of Order-in-Appeal No. IND-EXCUS-000-APP-326 to 332-2024-25 dated 25.03.2025 passed by the Commissioner of Customs, CGST & Central Excise (Appeals), Indore]

Shri Nagesh Hanamant Chavan **...Appellant**
Yamaji Patalachi Wadi,
Sangli, Maharashtra-415301

VERSUS

Commissioner of Customs - Indore **...Respondent**
B-Zone, 3rd Floor, Village – Piplyakumar,
Nipaniya, Indore,
Madhya Pradesh - 452001

APPEARANCE:
Shri Sujay Kantawala, Advocate for the Appellant
Shri N.M. Goyal, Authorized Representative for the Respondent

AND

Customs Appeal No. 51285 of 2025

[Arising out of Order-in-Appeal No. IND-EXCUS-000-APP-326 to 332-2024-25 dated 25.03.2025 passed by the Commissioner of Customs, CGST & Central Excise (Appeals), Indore]

Shri Pranith Jadhav **...Appellant**
Room No.15, Achevar Singh Chalvi,
Vakola Bridge, Santa Cruz (East),
Mumbai - 403005

VERSUS

Commissioner of Customs - Indore **...Respondent**
B-Zone, 3rd Floor, Village – Piplyakumar,
Nipaniya, Indore,
Madhya Pradesh - 452001

APPEARANCE:
Shri Sujay Kantawala, Advocate for the Appellant
Shri N.M. Goyal, Authorized Representative for the Respondent

CORAM:
HON'BLE DR. RACHNA GUPTA, MEMBER (JUDICIAL)
HON'BLE MR. P.V. SUBBA RAO, MEMBER (TECHNICAL)

DATE OF HEARING: 22.01.2026
DATE OF DECISION: **19.05.2026**

FINAL ORDER NO. 50970-50975/2026

DR. RACHNA GUPTA

This order disposes of 6 appeals arising out of the same investigation all the appellants being co-noticees to the show cause notice. The facts, in brief, relevant for the present adjudication are that on the basis of the specific intelligence the officers of Directorate of Revenue Intelligence (DRI), Indore on 08.09.2032, intercepted a white colour Skoda vehicle at Sonway Toll Plaza, Indore. Two persons were seated in the car namely Shri Navanath Chavan s/o Shri Hanamant Chavan and Shri Balasaheb mahadik s/o Shri Bhawsaheb Mahadik. On the search of the said vehicle 3 yellow metal bars wrapped in a newspaper were found concealed in the specially built cavities beneath the rear seat of the Skoda car. None of the occupants could produce any legal documents for

purchase of those metal bars, which appeared to be gold. They said that they had received the bars from Shri Suresh Gidde after paying Rs.1,80,60,000/- in cash to him at Pune.

1.2 The Government approved assayer M/s. Johari Radhakrishna Khandelwal examined the yellow metal bars and confirmed those to be gold of 99.5% purity totally weighing 3001.980 grams. He assessed the value of the said gold at Rs.1,81,61,979/-. The approver also reported that the bars were made by melting gold bullion and there is no BIS/hallmark thereupon as is required by Indian Bullion Standards. The bars were suspected to be of foreign origin. Pursuant to the assayer's report, the bars were seized under Section 110 of the Customs Act, 1962 on the reasonable belief that they were smuggled and were of foreign origin. No document qua legal possession thereof was produced by the appellant. The vehicle was also deemed liable for confiscation under Section 115(2) the Customs Act, 1962.

1.3 A Show Cause Notice No.09/2023-24 dated 29.02.2024 was served upon the appellants proposing the confiscation of 3 of the gold bars along with the white colour Skoda car in which the bars were found concealed that too in the special cavities made for the purpose under the rear seat of said Skoda car. Penalties were also proposed to be imposed as follows:

(i) Penalty under Section 114AA of the Customs Act, 1962 along with Section 112(b)(i) of the Act on both the occupants of the said car namely Shri Navanath Chavan and Shri Balasaheb Mahadik.

(ii) Penalty under Section 112(b)(i) of the Customs Act, 1962 and under Section 117 of the Act was proposed on Shri Suresh Gidde from whom the gold bars were said to have been purchased who also failed to cooperate with the department during investigation.

(iii) Similar penalties were proposed to be imposed on the other appellants with the same allegations.

The said proposals were confirmed vide Order-in-Original bearing No. 12/2024-25 dated 29.11.2024. Appeal against the said order has been dismissed by the Commissioner (Appeals) by Order-in-Appeal No. 326 to 332-2014-25 dated 25.03.2025 which is impugned in these appeals. Being aggrieved, the appellants are before this Tribunal.

2. We have heard Shri Sujay Kantawala, Shri Ankur Upadhyay, and Shri Vidyadhar S Apte, learned Advocates for the appellant and Shri N.M. Goyal, learned Authorized Representative for the department.

3. It is submitted on behalf of the appellants that the order under challenge is issued in gross violation of principles of natural justice. In the preliminary reply dated 07.05.2024 and subsequent reply dated 27.05.2024, the occupants of the car, requested for cross-examination of the DRI officers. At the stage of personal hearing also, the request was reiterated on behalf of all the co-noticees but the request was not accepted by the original adjudicating authority nor was the opportunity of being heard by virtual mode granted. Though Commissioner (Appeals) allowed hearing through virtual mode but none of the submissions of the appellants were

considered and the order has been passed contrary to the guidelines, imposing harsh and excessive penalties.

3.1 It is mentioned that the goods have wrongly been held to be the prohibited goods on the basis of presumptions and assumptions. The adjudicating authority did not follow provisions of Section 138B of the Customs Act, 1962 before relying on the statements made under Section 108 of the Customs Act. On this ground alone, the impugned order upholding the confiscation of seized goods, holding them to be smuggled foreign origin gold bars, is a completely prejudicial and biased order and thus is liable to be set aside. The decisions of this Tribunal in the case of **M/s. Sartaj International Vs. Commissioner of Customs, ICD (Export), New Delhi in Customs Appeal No. 55550/2023 dated 06.01.2026** and **M/s. Global Links Vs. Principal Commissioner of Customs (Airport & General), New Delhi in Customs Appeal No. 51134/2025 dated 14.01.2026** have been relied upon on behalf of Shri Pranith Jadhav who claimed the seized gold bars belonged to his father Shri Sarjerao Jadhav. In addition following decisions also has been relied upon:

(i) Saurabh Kapoor Vs. Principal Commissioner of Customs, ICD (Import), TKD, New Delhi passed by Hon'ble CESTAT, New Delhi on 29.10.2025.

(ii) Goldland Overseas Company Vs. Commissioner of Customs, Chennai reported as (2025) 35 Centax 193 (Tri.-Mad.)

(iii) Swaroop Sharma Vs. Principal Commissioner of Customs, New Delhi reported as (2025) 32 Centax 186 (Tri.-Del.).

(iv) Andaman Timber Industries Vs. Commissioner of Central Excise, Kokata-II reported as 2017 (50) STR 93 (SC)

(v) Shafeek P.K. Vs. Commissioner of Customs, Cochin 2015 (352) ELT 199 (Tri.-Bang.)

(vi) Khemani Purshottam Mohandas Vs. CC, CSI Airport, Mumbai 2017 (354) ELT 275 (Tri.-Mumbai)

3.2 It is further submitted that on appellant's behalf that the respondents have unlawfully sold the seized gold in hasty manner despite that the ownership was already claimed submitting the document establishing its authenticity. The decision in the case of **Leyla Mahmoodi Vs. Additional Commissioner of Customs reported as 2023 (30) Centax 291 Bombay** has been relied upon alleging the order to be contrary to the mandate of Section 125 of the Customs Act, 1962. The order under challenge vis-à-vis confiscation of gold bars and vehicle involved and also the imposition of penalty of all the appellants is prayed to be set aside and all the appeals are prayed to be allowed.

4. While rebutting these submissions, learned Departmental Representative submitted that the present case is with respect to the seizure of foreign gold and imposition of penalties on 6 appellants who were involved in an alleged smuggling syndicate operating between Pune in Maharashtra and Indore in Madhya Pradesh. He submitted that both the occupants of the vehicle from

whom 3 gold bars of 99.5% purity were recovered, had tendered their voluntary statements under Section 108 of the Customs Act, 1962 on 09.09.2023. It was specifically admitted that they had transported the foreign origin smuggled gold bars from Pune to Indore. Shri Balasaheb Mahadik had confessed to being an accomplice in smuggling business who was travelling with Shri Navnath Chavan to deliver the gold to Shri Anand Neema in Indore and that he was paid Rs.15,000/- per trip.

4.1 Learned Departmental Representative also pointed out that the gold was recovered from secret cavities specifically created in the said Skoda vehicle for concealing the gold bars. Learned Departmental Representative has impressed upon the call detail records which confirmed constant communication between the accused/appellants thereby corroborating the allegations of smuggling of gold by the appellants as a syndicate. All the appellants have committed one or the other such kind of act/omission which has rendered the goods liable for confiscation. Hence penalty under Section 112(b)(i) of the Customs Act, 1962 has rightly been imposed. Since no documents were produced by the possessors of the gold and the same was assessed by the assayer to lack hallmark but was gold of 99.5% purity that goods have rightly been held to be prohibited goods. There is no infirmity in the order confiscating the said bars and even the vehicle in which those bars were found concealed.

4.2 It is further submitted that though Shri Pranith Jadhav had claimed the ownership of the gold stating that the bars were made after melting gold ornaments procured through Siddhanth Jewellers

but the purity of such gold remains only at 91 to 92%, the purity of seized gold was of 99.5%. Hence, these submissions have rightly been rejected as being unsubstantiated and insufficient to discharge the burden cast on the appellants under Section 123 of the Customs Act, 1962.

4.2 The arguments about procedural challenges i.e. violation of natural justice and denial of cross-examination has also been rebutted by learned Departmental Representative mentioning that the cross-examination of the DRI officers is not an absolute right guaranteed in every quasi-judicial proceeding. While relying upon the decision in the case of **Commissioner of Customs (Preventive) Vs. Rajendra Kumar Damani reported as (2024) ELT 444 (Cal.)** all the appeals are prayed to be dismissed.

5. Having heard both the sides and perusing the entire records, following are observed to be the apparent facts.

(i) These metal bars which got assayed as gold of 99.5% purity weighing 3001.980 grams were recovered from the Skoda car.

(ii) The appellants Shri Navnath Chavan and Shri Balasaheb Mahadik were the occupants of the said car and the bars were recovered from the specially created cavities beneath the seat on which one of the occupants was sitting (the rear seat of the car).

(iii) The government assayer verified the recovered gold to be of 99.5% purity with no BIS of hallmarking indicating it to be of foreign origin.

(iv) None of the 2 occupants could explain having bars kept in their car in a concealed manner, nor could they produce any document proving the legal possession of those bars which got approved as gold, with them.

(v) In their statements under Section 108 of the Customs Act both the occupants have clearly admitted that the recovered metal bars were gold bars and they had received the said gold from Shri Suresh Gidde against making a cash payment and were on the way to deliver it to Shri Anand Neema in Indore.

(vi) The ownership of recovered gold has been claimed by Shri Pranith Jadhav.

6. All these above facts are sufficient to show that the DRI officers had at the time of intercepting the impugned gold and car, enough grounds to reasonably believe that the recovered metal is of foreign origin. Thus, the burden of proof has shifted upon the appellants in terms of Section 123 of the Customs Act, 1962 to prove that the seized gold was not smuggled. Thus, there is no infirmity in the findings of the adjudicating authorities below in invoking the said Section 123. We draw our support from the decision in the case of **Bapalal Khushaldas Gosalia v. R. Prasad, Collector of Central Excise, AIR 1965 Guj. 135**.

7. In the present case, to discharge the said burden, no evidence has been produced by any of the appellants. The only defence taken by the appellant (Shri Pranith Jadhav) is that the gold was made by melting old jewelry. But the said defence has not been proved by the appellants. The documents produced by

Shri Pranith Jadhav were found to be fabricated bills/invoices. Hence, the burden which was shifted upon the appellant after invoking Section 123 of the Customs Act stands undischarged. No benefit can be extended in favour of the appellant even on technical irregularities as pointed out by the appellants. We draw our support from the decision of this Tribunal in the case of **Praveen Kumar Jalan Vs. Commissioner of Customs (Prev.), New Delhi reported as (2025) 26 Centax 75 (Tri.-Del.)** and also from the decision of this Tribunal in the case of **Commissioner of Customs (Preventive) Vs. Rajendra Kumar Dmani @ Raju Damani reported as 2024 (389) ELT 444 (Cal.)** which has been upheld by Hon'ble Supreme Court vide case law cited as **2025 (394) ELT 46 (SC).** In an earlier decision in the case of Collector of **Customs, Madras and Ors. Vs. D. Bhoormull reported as 1983 (13) ELT 1546 (SC),** the Hon'ble Apex Court had held that even if there is no direct evidence of illicit importation of the goods adduced by the department, but several circumstances of a determinative character which complied with the inference arising from the dubious conduct of the accused which could lead to the conclusion that the seized articles were smuggled goods, the same is sufficient for confiscating the goods and penalizing the possessors.

8. It is observed that department has relied not merely on the statements of admission but there is enough corroborative material brought on record against the appellants that the assertion of procuring old jewelry and converting it into the gold bars of 99.5% purity is not credible as the purity in such case remains only to 91-

92%. 99.5% purity is generally of foreign origin gold. The gold bars were found secretly concealed in the specific cavities created in the vehicle for the purpose of carrying/concealing the foreign origin gold during transit. In addition, there has been the documentary evidence in form of the electronic call detail report and the WhatsApp chat which has revealed, beyond doubts, the communication between both carriers who were intercepted from the seized Skoda car, with supplier (Shri Suresh Gidde) and receiver (Shri Anand Neema) specifically at the time of the impugned act of alleged smuggling. Not only this, the WhatsApp chat records even shows the photographs of the seized gold bars. The electronic data has duly been certified. There is no evidence to rebut the said data. This electronic evidence and the above observed circumstantial evidence directly corroborates the confessional statements of the appellant about them being involved in illegal trade of foreign origin gold.

9. Coming to the grounds raised by all the appellants i.e. with respect to Section 138B of the Customs Act alleging that the statements have wrongly been relied upon while confirming the confiscation and the imposition of penalty. However, it is already observed that not merely the statements of both the persons who were intercepted along with the concealed gold bars as were recorded under Section 108 of the Customs Act, 1962 are relied but the evidences too specifically the customized jackets/pockets created under the rear seat of the car of the said occupants with yellow metal bars recovered therefrom, as apparent from the Panchnama 08.09.2023. The yellow metal is approved to be gold of

99.5% purity vide report dated 09.09.2023. Thus there is suffiecient documentary evidence on record which has not been falsified despite the burden was on the appellants in terms of Section 123 of the Customs Act to prove their innocence.

9.1 Resultantly, irrespective of the mandate of Section 138B of the Customs Act, the statements of the appellants as were got recorded under Section 108 of the Customs Act having admission of smuggling gold stands corroborated. Hence those sections do not come to the rescue of the appellant in the given circumstances.

10. Coming to the another challenge of not being afforded with the opportunity of cross examining the DRI officers, it is observed that since the statements made by the appellants herein are in the nature of admission of the guilt/importing foreign origin gold. The admissions need not to be proved. Declining opportunity of cross examination cannot be held to be prejudicial to the interest of the persons admitting their guilt nor such right can be called as the mandatory right in light of the admissions already recorded. We draw our support from the decision of Hon'ble Supreme Court in the case of **Kanungo & Company v. Collector of Customs reported as (1973) 2 SCC 438,** wherein it was held that the principles of natural justice do not require that in the matters of admitted guilt the person who have given information, the DRI officers herein, should be examined in the presence of the accused and should be allowed to be cross-examined by them on the statements made before customs authority. While reiterating the said principle in the case of **Surjeet Singh Chhabra Vs. Union of India reported as 1997 (1) SCC 508,** the Hon'ble Apex Court held that the

confession, irrespective retracted, is an admission and binds the petitioner failure to provide an opportunity to cross examine the witnesse, in such circumstances, shall not be violated of the principles of natural justice. It was subsequently clarified that once an admission has been made by the petitioner, the denial of right to cross examine the witness is justified and no prejudice can be pleaded by such a party, in the decision of **M/s. Telestar Travels Pvt. Ltd. Vs. Special Director of Enforcement reported as 2013 (9) SCC 549.** Hence it is held that even in absence of the statements, there is sufficient evidence on record to prove the alleged guild of the appellants. Appellants have failed to discharge their burden. Otherwise also, the proceedings that involved evasion of tax laws/evasion of customs duty, it is only preponderance of probability rule which is to followed. The proof beyond reasonable doubts is not required. It draw my support from the decision of Hon'ble Supreme Court in the case of **D. Bhoormull (supra).**

11. In the light of entire above discussion, We do not find any infirmity in the order under challenge. Same is accordingly upheld. Consequent thereto, all the 6 appeals are hereby dismissed.

[Order pronounced in the open court on **19.05.2026**]

(DR. RACHNA GUPTA)
MEMBER (JUDICIAL)

(P.V. SUBBA RAO)
MEMBER (TECHNICAL)

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