CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. 4

CUSTOMS APPEAL NO. 51127 OF 2025

(Arising out of Order-in-Appeal No. CC(A)CUS/D-II/PREV46/2024-25 dated 29.11.2024 passed by the Commissioner of Customs (Appeals), New Delhi)

Mr. Shivaji Patil ...... **Appellant**
K-25, 26 & 31, Punjabi Bazar,
Kotla Mubarakpur, New Delhi-110003

Versus

Commissioner of Customs ...... **Respondent**
New Customs House,
Near I.G.I. Airport, New Delhi-110037

APPEARANCE:
Shri Gaurav Prakash, advocate for the appellant
Shri Ram Parvesh Prasad, authorised representative for the department

CORUM: HON'BLE MR. ASHOK JINDAL, MEMBER (JUDICIAL)

DATE OF HEARING: May 05, 2026
DATE OF DECISION: July 22, 2026

FINAL ORDER NO. 51272/2026

MR. ASHOK JINDAL

The appellant is in appeal against the impugned order wherein silver bars during the course of investigation weighing 40055 gm was absolutely confiscated and penalty of Rs. 7 lakh under sections 112A and 112B of the Customs Act, 1962 had been imposed.

2. The facts of the case are that acting upon intelligence developed by the officer of Directorate of Revenue Inteligence, Delhi Zonal Unit that a syndicate has been involved in smuggling and carrying foreign origin gold from Myanmar to Delhi NCR via North-Eastern states of India by train route. Three persons were intercepted on 27.08.2019 from two different trains travelling from New Langonian to New Delhi. The search of three persons resulted in recovery of 12292.3 gm of foreign origin

smuggled gold bars. During the course of investigation, it was revealed that the said gold bars were meant for delivery to one, Shri Amit Patil, resident of K25,26 & 31 of Punjabi Bazar, Kotla Mubarkpur, New Delhi. Consequent to thereof, a search was conducted at the residential premises of Shri Amit Patil on 17.03.2020 which resulted in recovery of 24 white metal bars weighing 40055 gm. Shri Shivaji Patil, the appellant before me, father of Shri Amit Patil claimed the ownership of these white metal bars but could not produce any purchase bill/document in support of his claim. The recovered white metal bars were appraised by jewelery appraiser and it was confirmed by him in his appraisement report dated 17.03.2020 that the recovered 24 white metal bars totally weighed 40055 gm were made of silver. The market value at that time was Rs. 14,50,548/-. As silver bullions are notified goods under section 123 of the Customs Act, 1962, therefore, the onus of proving ownership thereof, and source of procurement thereof, lies on the appellant that the said silver bars are not smuggled ones. Therefore, summons were issued to the appellant dated 09.03.2020, 22.05.2020, 07.08.2020, 24.08.2020 and 21.09.2020 for proving the ownership of procurement of the said silver bars. But, neither the appellant appeared nor their representative could produce any documentary evidence in support of their claim. Therefore, the show cause notice was issued to the appellant of seized silver bars on 28.09.2020. The matter was adjudicated and the silver bars in question were absolutely confiscated and a penalty of Rs. 7 lakh was imposed. The said order was challenged by the appellant before the learned Commissioner (Appeals) and contested that officer of the Directorate of Revenue Intelligence is not the proper officer to issue the show cause notice in the light of the decision of the Hon'ble Apex Court in the case of **Canon India Pvt Ltd, 2021** (SSC Online SC 200) and also submitted that as the appellant has shown the said silver in their income tax return and shown their profit and loss account balance sheet in support of their claim prove ownership thereof. But the learned Commissioner (Appeals) dismissed the appeal filed by the appellant, therefore, the appellant is before me.

3. The matter was heard.

4. The learned counsel for the appellant submits that it is alleged thereis a reasonable belief for seizure which is arbitrary, mechanical and unsustainable. To support this contention, he relied on the decision of **Jai Mata Ji Enterprises vs. C.C.E, 2021** (15 GSTR OL 204). He also relied on the decision of the Hon'ble Patna High Court in the case of **Sukhdev Singh vs. Union of India, 2026** (165 GSTR 164). He also took support of the following decisions:

(i) **Narayanappa and Ors. v. Commissioner of Income Tax, Bangalore** [(1967) I SCR 590: AIR 1967 SC 523]

(ii) **Indru Ramchand Bharvani vs. Union of India** reported in (1988) 4 SCC I)

(iii) **MAPSA Tapes Pvt Limited vs. Union of India** (2006 SCC Online P&H 2154)

5. He further submitted that confiscation under sections 111(D) and 111(J) of the Customs Act, 1962 is wholly illegal, mechanical and unjustified. He also submitted that the appellant has duly discharged their burden of proof under section 123 of the Customs Act by producing income tax returns and balance sheet. Therefore, the silver bars recovered are to be released. He further submitted that the silver bearing s.no. 1 to 11 having no marking and s.no. 12 to 24 had distinct Indian markings. Therefore, it could not be held that the silver bars in question are smuggled ones.

6. On the other hand learned authorised representative for the department supported the impugned order and submitted that there was a reasonable belief that Shri Amit Patil is involved in smuggling of gold/silver from Myanmar route through various careers, therefore, search was conducted at his premises and the impugned 24 silver bars weighing 40055 gm were recovered for which the appellant failed to produce any evidence in their support although various summons have been issued to the appellant. In that circumstances, the appellant has failed to discharge their burned of proof. Therefore, the impugned silver is rightly confiscated.

7. Heard the parties. Considered the submissions.

8. I find that in this case a search was conducted on the premise that Shri Amit Patil, son of the appellant, is involved in smuggling of gold/silver and at the time of search 24 silver bars were recovered weighing 40055 gm. At that time no explanation was given for procurement of the said silver bars. Various summons were also issued to the appellant who claims to be the owner of the said silver bars but the appellant did not appear on any occasion. Therefore, the Revenue has no option but to seize the said silver bars recovered during the course of investigation.

9. Now burden passed on the appellant to prove that the said silver bars which is notified item under section 123 of the Customs Act, 1962 to prove the source of procurement of the said silver bars.

10. The appellant could not produce any document in support of procurement of the silver bars, only filed income tax returns and profit and loss balance sheet to substantiate that the appellant is the owner of the said silver bars

11. I have gone through the profit and loss account and balance sheet produced by the appellant for the period ending 31.03.2019 and 31.03.2020. For better appreciation of the facts, the same are extracted below:

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M/s SP STYLE Prop. Shivaji Rao Patil

Trading and Profit & Loss Account For the Year Ended 31.03.2019

PARTICULARS	AMOUNT(Rs)	PARTICULARS	AMOUNT(Rs)
		BY SALES	7609520
TO PURCHASE	6964200	BY Closing Stock	332300
TO ELECTRICITY EXPENSES	11231		
TO TELEPHONE & INTERNET EXPENSES	5436		
TO PRINTING & STATIONERY	4345		
TO SALARY	231345		
TO STAFF WELFARE EXPENSES	12345		
TO BUSINESS PROMOTION EXPENSES	3423		
TO REPAIR & MAINTANANCE EXPENSES	11232		
TO CONVEYANCE EXPENSES	5647		
TO NET PROFIT	692616		
Total	7941820	Total	7941820

For R.K.Raman & Co
R.K.Raman
Dated:28/02/2018
Place : New Delhi

For S.P.Jewellers
Proprietor
Shivaji Rao Patil

M/s SP STYLE Prop. Shivaji Rao Patil

BALANCE SHEET as on 31st March 2019

LIABILITIES	AMOUNT(Rs.)	ASSETS	AMOUNT(Rs.)
Capital Account		Fixed Assets	
Capital Account of Shivaji Khanderao Patil	613740		0
		Current Assets	
		Stock in Hand	332300
Current Liabilities			
Sundry Creditors	65350	Sundry Debtors	321200
		Cash and Bank Balance	
		Cash in hand	11240
		Bank Balance	14350
Total	679090	Total	679090

For R.K.Raman & Co
R.K.Raman
Dated;28/02/2018
Place : New Delhi

For S.P.Jewellers
Proprietor
Shivaji Rao patil

M/s SP STYLE Prop. Shivaji Khanderao Patil
Balance Sheet as on 31st March 2020

LIABILITIES	AMOUNT(Rs.)	ASSETS	AMOUNT(Rs.)
Capital Account		**Fixed Assets**	
Proprietor Capital	894056		0
Current Liabilities		**Current Assets**	
Sundry Creditors	912520	Stock in Hand	1562505
		Sundry Debtors	24520
		Cash and Bank Balance	
		Cash in hand	12545
		Bank Balance	207006
Total	**1806576**	**Total**	**1806576**

For R.K.Raman & Co.
Chartered Accountant
R.K.Raman
Place:New Delhi
Dated:26/08/2020
UDIN:20504962AAAABM6798

For SP STYLE
Proprietor
Shivaji Khanderao Patil

M/s SP STYLE Prop. Shivaji Khanderao Patil
Trading and Profit & Loss Account For the Year Ended 31.03.2020

PARTICULARS	AMOUNT(Rs)	PARTICULARS	AMOUNT(Rs)
TO Adjusted Purchase	4225037	BY Sales	3810720
TO Electricity Expenses	11855	BY Closing Stock	1562505
TO Telephone and Internet Expenses	6556		
TO Printing and Stationery	4885		
TO Salary	248855		
TO Staff Welfare Expenses	13885		
TO Business and Promotion Expenses	3886		
TO Repair and Maintenance	13775		
TO Conveyance Expenses	3774		
TO Net Profit	840717		
Total	**5373225**	**Total**	**5373225**

For R.K.Raman & Co.
Chartered Accountant
R.K.Raman
Place:New Delhi
Dated:26/08/2020
UDIN:20504962AAAABM6798

For SP STYLE
Proprietor
Shivaji Khanderao Patil

12. On going through the profit and loss account for the period ending 31.03.2019, a closing stock is shown amounting to Rs. 3,32,300/-, however, the said profit and loss account bas been prepared on 28.02.2018, well in advance the date of closing, that is, 31.03.2019. Moreover, the balance sheet also was prepared on 28.02.2018 for the period ending on 31.03.2019, the closing stock is shown as Rs. 3,32,300/-. Whereas in the opening stock for the year starting from 01.04.2019 to 31.03.2020 no opening stock has been shown by the appellant which results that the balance and documents filed by the appellant are fabricated as no opening stock is shown by the appellant on 01.04.2019. Moreover, from the documents produced by the

appellant, no where it is coming out that the appellant is engaged in the business of sale and purchase of silver items or silver bullions.

13. In that circumstances, the documents produced by the appellant are not admissible for his claim that he is the real owner of the said silver bars.

14. In that circumstances, I do not find any infirmity with the impugned order. The case law relied upon by the appellant are not relevant to the facts of this case.

15. In that circumstances, by upholding the impugned order, the appeal is dismissed.

(Order pronounced on 22.07.2026)

(MR. ASHOK JINDAL)
MEMBER (JUDICIAL)

Apoorva