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

REGIONAL BENCH – COURT NO. 1

Customs Appeal No. 75645 of 2026

(Arising out of Order-in-Appeal No. KOL/CUS(AIRPORT)/AKR/857/2020 dated 09.12.2020 passed by the Commissioner of Customs (Appeals), 3rd Floor, 15/1, Strand Road, Kolkata – 700 001)

Subhalendra Kumar **: Appellant**
S/o. Naval Kishore Sharma,
Vill.: Rajpur, P.O.: Bodhgaya,
Gaya – 824 231

VERSUS

Commissioner of Customs (Airport) **: Respondent**
N.S.C.B. International Airport,
Kolkata – 700 052

APPEARANCE:

Shri Aditya Dutta, Advocate, for the Appellant

Shri Tariq Sulaiman, Authorized Representative, for the Respondent

CORAM:

HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO. 75898 / 2026

DATE OF HEARING: 17.07.2026

DATE OF DECISION: 20.07.2026

ORDER:

The present appeal has been preferred assailing Order-in-Appeal No. KOL/CUS(AIRPORT)/AKR/ 857/2020 dated 09.12.2020 passed by the Commissioner of Customs (Appeals), Kolkata, whereby the Order-in-Original No. 16/2019-ADC dated 12.02.2019 passed by the Additional Commissioner of Customs, Air Intelligence Unit, NSCBI Airport, Kolkata, ordering absolute confiscation of the impugned gold ornaments under Sections 111(d), 111(i) and 111(l) of the Customs Act, 1962 and imposing penalty of Rs.6,00,000/- under Sections 112(a), 112(b) and 114AA of the said Act, came to be upheld.

2. The brief facts leading to the present proceedings are that Shri Subhalendra Kumar, S/o. Naval Kishore Sharma, Vill.: Rajpur, P.O.: Bodhgaya, Gaya – 824 231 [hereinafter referred to as the "appellant"] arrived at the Netaji Subhas Chandra Bose International Airport, Kolkata on 31.08.2017 from Bangkok by Flight No. FD-120. After collecting his baggage, while proceeding towards the exit through the Green Channel, he was intercepted by the officers of the Air Intelligence Unit (AIU). Upon being questioned, the appellant is stated to have denied carrying any dutiable goods or gold, either in his baggage or on his person. Since the officers were not satisfied with the response, the baggage viz. one chocolate coloured leather hand bag, carried by the appellant was subjected to X-ray screening, whereupon certain yellow-coloured metallic objects were discovered. The appellant was thereafter directed to pass through the Door Frame Metal Detector, which also indicated the presence of metallic objects on his person. Consequently, the appellant, along with his baggage, was taken to the AIU office for detailed examination.

3. Upon personal search conducted in the presence of independent witnesses, two gold bangles were recovered from a hand bag carried by the appellant, while one gold chain was found worn around his neck underneath his shirt. The recovered yellow metallic ornaments were thereafter examined by Shri A.B. Kundu, Government Approved Valuer, who, upon physical examination, reported that the two (02) yellow metallic bangles and one (01) yellow metallic chain, believed to be of foreign origin, were made of 24 Karat gold, collectively weighing 418.000 grams and having a total market value of Rs.12,54,000/-. On

the basis of the aforesaid report, and on the ground that the appellant had neither declared the said gold ornaments before crossing the Green Channel nor produced any licit documents evidencing their lawful importation or acquisition, the said gold ornaments were seized under Section 110 of the Customs Act, 1962. The Appellant was also found to be ineligible to bring the gold, as per the extant Rules.

3.1. Later, the samples of the seized ornaments were also forwarded to the Customs Chemical Laboratory, Custom House, Kolkata, which, upon examination, reported that the ornaments possessed a purity of 99.6% by weight of gold. Thus, it was inferred that the gold ornaments so seized from the possession of the appellant were made of gold of foreign origin, which were intended to be smuggled by way of non-declaration and concealment so as to evade payment of applicable duties of customs.

4. During the course of investigation, the statement of the appellant came to be recorded under the provisions of the Customs Act, 1962, wherein, according to the Revenue, the appellant inter alia admitted that he was unable to produce any documentary evidence in support of the importation of the impugned gold ornaments and further stated that the same had been handed over to him by a person at Yangon for delivery to another individual at Bodh Gaya.

4.1. However, during the course of investigation, the appellant has consistently maintained that he is a travel agent by profession and had purchased the two gold bangles for his personal use during his visit abroad, but, being under the bona fide impression that the ornaments were permissible as bona fide baggage, proceeded through the Green Channel without making any declaration.

5. Upon completion of investigation, a Show Cause Notice dated 18.01.2018 came to be issued proposing confiscation of the aforesaid gold ornaments under Sections 111(d), 111(i) and 111(l) of the Customs Act, 1962 and imposition of penalties upon the appellant under Sections 112(a), 112(b) and 114AA of the Act.

5.1. The proceedings culminated in the passing of the aforesaid Order-in-Original dated 12.02.2019, whereby the adjudicating authority ordered absolute confiscation of the seized gold ornaments and imposed a penalty of Rs.6,00,000/- upon the appellant under the above said Sections.

5.2. The appeal preferred thereagainst came to be dismissed by the Ld. Commissioner of Customs (Appeals), Custom House, kolkata vide the impugned Order-in-Appeal dated 09.12.2020, affirming the Order-in-Original dated 12.02.2019 passed by the adjudicating authority.

5.3. Aggrieved thereby, the appellant is before this Tribunal.

6. The Ld. Counsel appearing on behalf of the appellant submitted that the challenge in the present appeal has principally been confined to the question of the nature of confiscation ordered by the authorities below and the quantum of penalty imposed upon the appellant. It was contended that, although the confiscation of the impugned gold ornaments has not been seriously disputed, the authorities below were not justified in directing absolute confiscation, inasmuch as the appellant ought to have been

afforded an opportunity to redeem the confiscated gold on payment of an appropriate redemption fine in accordance with law.

6.1. It was further submitted that the appellant is not a habitual offender and that there is no material on record to indicate any previous involvement in similar offences. In the aforesaid circumstances, it was urged that the ends of justice would be adequately served if the appellant is permitted to redeem the confiscated gold ornaments on payment of a reasonable redemption fine, coupled with a substantial reduction in the penalty imposed.

6.2. In support of the aforesaid contention, reliance has been placed upon the decision of the CESTAT, Ahmedabad in Lookman *Mohamad Yusuf vs. Commissioner of Customs, Ahmedabad reported in 2024 (17) Centax 4 (Tri.-Ahmd.),* wherein, in on comparable circumstances, the Tribunal permitted redemption of the confiscated gold on payment of redemption fine and substantially reduced the penalty imposed. It is, accordingly, prayed that a similar view be adopted in the facts and circumstances of the present case.

7. The Ld. Authorized Representative appearing for the Revenue reiterated the findings recorded in the impugned order and submitted that the appellant was admittedly not an eligible passenger for import of gold under the applicable provisions governing baggage imports. It was stressed that the appellant had neither declared the impugned gold ornaments before crossing the Green Channel nor discharged the applicable customs duty, and therefore the import itself was contrary to law. It is his submission that gold brought into India by an ineligible passenger,

without declaration and in contravention of the Baggage Rules, assumes the character of 'prohibited goods' under the Customs Act, 1962, thereby rendering the same liable to absolute confiscation. According to the Revenue, in the facts of the present case, the authorities below had rightly exercised their discretion in ordering absolute confiscation under the provisions of the Customs Act, 1962, and no interference therewith is warranted. The Ld. Authorized Representative further submitted that, in view of the deliberate non-declaration of the impugned gold ornaments and the attendant contraventions established on record, the penalty imposed upon the appellant is commensurate with the gravity of the offence and calls for no reduction. Reliance is placed by the Revenue on the ratio of the following decisions: -

i. *Nidhi Kapoor v. Principal Commissioner and Additional Secretary to The Government of India in WP(C) No.8902 of 2021 and C.M Appl.No. 28834 of 2021 decided on 21.08.2023 – Delhi High Court;*

ii. *Rameshwar Tiwari c. Union Of India in W.P. (C) No. 9273 of 2021 and C.M. Appl. No. 28834 of 2021, decided on 20-3-2024.*

7.1. He accordingly prayed for dismissal of the appeal and for affirmation of the impugned order in toto.

8. Heard both sides and perused the records of the case.

9. Having considered the rival contentions, I observe that the issue in the present appeal lies in a narrow compass. The appellant has not seriously assailed the finding of confiscability of the impugned gold ornaments, the principal grievance being confined to the nature of confiscation ordered by the

authorities below and the quantum of penalty imposed.

9.1. Be that as it may, I find it pertinent to note that the Chemical Laboratory, Custom House, Kolkata, vide its report dated 12.09.2017, has certified the impugned ornaments to possess a purity of 99.6% by weight of gold. The record further reveals that the appellant was unable to produce any satisfactory or licit documents evidencing the lawful importation or acquisition of the said ornaments before the Customs authorities at the relevant point of time. Admittedly, the appellant also chose to pass through the Green Channel without making any declaration in respect of the gold ornaments recovered from his baggage and person. In such circumstances, I find no infirmity in the conclusion arrived at by the authorities below that the impugned goods were liable to confiscation under the provisions of the Customs Act, 1962. Accordingly, the confiscation of two (02) gold bangles and one (01) gold chain, collectively weighing 418.000 grams and valued at Rs.12,54,000/-, is upheld.

10. The principal issue which, however, falls for consideration is whether the facts and circumstances of the present case warranted an order of absolute confiscation, or whether the appellant ought to have been afforded an opportunity to redeem the confiscated gold ornaments upon payment of an appropriate redemption fine under Section 125 of the Customs Act, 1962. In my considered view, while exercising the discretion vested under the statute, the adjudicating authority is required to examine not merely the factum of contravention but also the nature of the offence, the attendant circumstances and the overall conduct of the passenger, instead of

mechanically directing absolute confiscation in every case.

10.1. It is true that the appellant's assertion regarding absence of any previous antecedents of carrying or smuggling foreign gold cannot, by itself, be accepted at its face value in the absence of independent verification. Nevertheless, from the very inception of the investigation, including the statement recorded under Section 108 of the Customs Act on 31.08.2017, the appellant has consistently maintained that he is a travel agent by profession and that the impugned ornaments had been acquired by him during his visit abroad. It is equally borne out from the said statement that the appellant candidly admitted having committed an error in proceeding through the Green Channel without making the requisite declaration. The tenor of the statement, read as a whole, does not disclose any attempt on the part of the appellant to disown the recovery or to obstruct the investigation.

10.2. Upon an overall appreciation of the material available on record, I am inclined to hold that the contravention committed by the appellant appears to be the result of a bona fide misconception regarding the permissibility of carrying the impugned ornaments as baggage, rather than a deliberate or organised attempt to clandestinely smuggle the same into India. The circumstances surrounding the recovery also lend support to such inference. Significantly, one of the impugned ornaments, namely the gold chain, was admittedly being worn by the appellant around his neck, while the remaining two gold bangles were kept in his handbag. Though such conduct cannot absolve the appellant of the statutory obligation to make a proper declaration before the Customs authorities, it nevertheless constitutes a relevant circumstance while evaluating the nature and gravity of the offence alleged against him. The manner of carriage, viewed in conjunction with the attendant facts, does not indicate the existence of a carefully designed modus operandi ordinarily associated with organised smuggling activities.

11. At the same time, it requires to be emphasised at this juncture that the aforesaid circumstances do not in any manner dilute the confiscability of the impugned goods, which has already been upheld hereinabove. The distinction between the liability of the goods to confiscation and the discretion to permit redemption thereof is well recognised under the scheme of the Customs Act. While confiscation is a consequence flowing from the statutory contravention, the question whether such confiscation ought to be absolute or whether redemption should be permitted depends upon the facts and circumstances peculiar to each case.

12. Another aspect which deserves due consideration is the character and quantity of the goods involved. The impugned articles comprise gold ornaments in the form of two bangles and one chain, collectively weighing 418.000 grams, which is considerably below one kilogram. Under the scheme of the Customs law governing passenger baggage, the weight of the gold, though cannot be viewed in isolation, undoubtedly constitutes an important factor in such cases. Equally relevant are the nature of the articles, the status of the passenger, the surrounding circumstances and the existence or otherwise of any demonstrable intention to evade the law. The present case does not involve primary gold in the form of bars, biscuits or bullion, which ordinarily assumes greater significance while examining allegations of organised smuggling.

Instead, the goods consist of finished gold ornaments, one of which was being worn by the appellant himself. These circumstances, though not exonerating the appellant from the consequences of non-declaration, are undoubtedly germane while determining whether the extreme measure of absolute confiscation ought to be sustained.

13. I also find considerable force in the submission advanced on behalf of the appellant that, in a catena of decisions rendered on comparable facts, the judicial approach has consistently been to uphold the confiscability of the gold while permitting redemption thereof on payment of an appropriate redemption fine coupled with a reasonable penalty, depending upon the gravity of the contravention. A similar principle has been adopted in the case of *Lookman Mohamad Yusuf v. Commissioner of Customs, Ahmedabad reported in 2024 (17) Centax 4 (Tri.-Ahmd.)* wherein, under similar facts and circumstances, the Tribunal has permitted redemption of gold chains and further ordered reduction of penalty, in the following manner:-

> *"4.2 Having considered the rival contentions and on perusal of record 1 find that any passenger provided under section 77 of Customs Act, 1962. Further if it is found that the goods accompanying entering into India is required to make a declaration of his baggage before entering into India as him which are also called as baggage, import of which is prohibited and in respect of which true declaration has been made under section 77 the proper officer may at the request of the passenger Customs Act, 1962. The revenue alleged that in the present case appellant signed the declaration but detain such articles for the purpose of being returned to him on his leaving India under section 80 put not mentioned any goods in declaration. I have gone through the said disputed form and found that neither appellant mentioned the detail YES nor mention details as NO in the said declaration form. Appellant simply signed the*

declaration form and handover to the officers at Airport. However, the said option was not exercised and officers seized the goods and detained the passenger. In the instant case, the passenger is neither a habitual offender nor carrying the said goods for smuggling purpose. In this circumstance the Order of the Ld. Commissioner for absolute confiscation of gold chains legally not correct. Further I find that the gold is not a prohibited item. It can be imported only with certain conditions as prescribed under Exim Policy as well as guidelines laid down by the RBI.

4.3 I find that there are series of judgments where redemption of absolutely confiscated gold/gold jewellery has been allowed. In Hargovind Das K. Joshi v. Collector of customs 1992 (61) E.LT. 172 (S.C.) 1987 taxmann.com 616 (SC) the Hon'ble Apex Court remanded the case to the Collector for exercising the option of redemption under section 124 of Customs Act, 1962. In Universal Traders v Commissioner 2009 (240) E.L.T. A78 (S.C.) also the Apex Court allowed redemption of exported goods being not prohibited, In Gauri Enterprises v. CC, Pune 2002 (145) E.L.T. 706 (Tri. Bang) 2002 taxmann.com 926 (CEGAT Bang.) the CESTAT held that if similar goods have been released on fine earlier, selective absolute confiscation is not called for as absolute confiscation should be an exception rather than a rule. In CC (Airport), Mumbal v. Alfred Menezes -2009 (242) E.L.T. 334 (Bom.), the Hon'ble High Court held that Section 125(1) ibid clearly mandates that it is within the power of adjudicating authority to offer redemption of goods even in respect of prohibited goods. In Yakub Ibrahim Yusitf2011 (263) E.L.T. 685 (Tri. Mumbai) the Tribunal held that option of redemption has to be given to person from whose possession impugned goods are recovered, even though he had not claimed its ownership. In Shaik Jamal Basha v. Government of India 1997 (91) E.L.T. 277 (A.P.) the Horrible High Court held that gold is allowed for import on payment of duty and therefore Gold in the form other than ornaments imported unauthorised can be redeemed. In VP Hameed v. Collector of Customs, Mumbai - 1994 (73) E.LT. 425 (Tri.) it was held that there is no bar in allowing redemption of gold being an item notified under section 123 of Customs Act, 1962 or for any other reason. In P. Sinnasamy v. Commissioner of Customs, Chennai 2007 (220) E.L.T. 308 (Tri. Chennai), the Hon'ble

Court allowed redemption of absolutely confiscated gold observing that option to redeem the gold to be given as there is no bar against such option by reason of goods being an item notified under section 123 of Customs Act, 1962 or for any other reason. In T. Elavarasan v. Commissioner of Customs (Airport), Chennai 2011 (266) E.L.T. 167 (Mad.), the Hon'ble High Court held that gold is not a prohibited item and option is available to owner of goods or person from whom goods seized, to pay fine in lieu of confiscation. In Union of India v. Dhanak M. Ramji 2009 (248) E.L.T. 127 (Bom.) affirmed vide 2010 (252) E.L.T. A102 (S C.) it was held that gold is not a prohibited item and discretion of redemption can be exercised to the person from whom it was recovered. In A. Rajkumari v. CC (Chennai) - 2015 (321) E.L.T. 540 (Tri-Chennai) the redemption of 70 gold bars brought by concealing in air conditioner was allowed and fine was reduced to 14%. In Kader Mydeen v. Commissioner of Customs (Preventive), West Bengal 2001 (136) E.L.T. 758 it was held that in view of the liberalised gold policy of the Government, absolute confiscation is unwarranted and redemption can be allowed. In Sapna Sanjeev Kohli v. Commissioner of Customs, Airport, Mumbai 2008 (230) E.L.T. 305 the Tribunal observed that the frequent traveller was aware of rules and regulations and absolute confiscation of gold jewellery not warranted which may be cleared on payment of redemption fine. In Vattakkal Moosa v. Collector of Customs, Cochin 1994 (72) E.L.T. 473 (G.0.1.); Halithu Ibrahim v. CC [2002-TIOL 195-CESTAT-MAD. 2002 (148) E.L.T. 412 (Tribunal); Krishna Kumari v. CC, Chennai 2008 (229) E.L.T. 222 (Tri-Chennai); S. Rajagopal v. CC, Trichy 2007 (219) E.L.T. 435 (Tri-Chennai); M. Arumugam v. CC, Triehirapalli, 2007 (220) E.L.T. 311 (Tri-Chennai) also it was held that absolute confiscation is not warranted and redemption of gold should be allowed.

4.4 In the case of Yakub Ibrahim Yusuf cited supra, it has been held that prohibited goods refers to goods like arms, ammunition, addictive drugs, whose import in any circumstance would danger or be detriment to health, welfare or morals of people as whole, and makes them liable to absolute confiscation. It does not refer to goods whose import is permitted subject to restriction, which can be confiscated for violation of restrictions, but liable to be released on payment of redemption fine. The gold *does not fall under the prohibited category and therefore it cannot be absolutely confiscated. Further I find that in the case of Mohd. Zia Ul Haque 2014 (314) E.L.T. 849 (G.O.I.), the Revisionary Authority in identical circumstances has held that if the gold ornaments are brought by passenger without declaration, then the same are not liable to absolute confiscation without giving any option to redeem the same. It is further held that when the goods are not prohibited, the adjudicating officer shall give option to pay redemption fine in lieu of confiscation, as the officer thinks fit, which discretion has to be exercised judiciously and if the passenger is not a habitual offender and not carrying the said goods for somebody else, nor did he conceal the goods in any ingenious manner, should be given option to redeem the goods on payment of redemption fine.*

4.5 Therefore keeping in view of my above discussion, I am of the considered view that in the present case considering the facts and circumstances, the order of absolute confiscation is not sustainable in law and therefore I set aside the order of absolute confiscation and give an option to the appellant to redeem the Gold Chains on payment of redemption fine of Rs. 3,00,000/-

4.6 As regard the confiscation of foreign currency worth USD 11,325, I find that Section 111 of the said Act, under which the impugned foreign currency has been confiscated, which provides for confiscation of improperly imported goods. Thus, unless the improper importation is proved with evidence, the said section is not applicable, there is no evidence on record to prove that the impugned foreign currency was improperly imported. Mere improper procurement, if at all, in contravention of FEMA, will not attract Section 111 of the said Act. Hon'ble Tribunal in the case of CC v. L. Rajkumar, reported at 2014 (312) E.L.T. 99 (Tri.-Chennai), in para 15, has held as under:-

"The above section [f.e. Section 111(d)) makes it amply clear that the goods are liable to confiscation under Customs Act if the goods are imported or attempted to be imported contrary to any prohibition under Customs Act or under any other law for the time being in force. So the prohibition imposed under Customs Act or any other law for the time

> *being in force referred therein has to be a prohibition on import. The prohibition in FEMA on trading and possession of foreign currency will not come within the scope of Section 111(d) because this section deals with import and prohibition on import and no other prohibition..."*
>
> *10. There is no evidence on record to prove improper importation of the impugned foreign currency. Therefore, the same cannot be confiscated under section 111(d) of the said Act. Consequently, there is also no ground to confiscate the impugned Indian currency and the Wagon-R vehicle and to impose penalty under section 112 of the said Act on the noticees. Thus, the impugned order is not sustainable and the same is set aside."*
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> *4.7 I observed that, in the present matter Revenue has not advanced any evidence to show that the foreign currency, in question, was smuggled into the country by the appellant. In the absence of such evidence, confiscation of the same cannot be upheld. Hence I set aside the confiscation of the currency. Accordingly the revenue shall release the currency of $11,325/- to the appellant.*
>
> *4.8 As far as penaltles imposed on appellant under section 112(a) and Section 114AA is concerned, having regard to the totality of the facts and circumstances of the impugned matter the penalty imposed is reduced to a sum of Rs. 1,00,000/- under section 112(a) of the Act and the penalty of a sum of Rs. 50,000/-, under section 114AA of the Act.*
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> *5. In the result, the appeal is partly allowed in the above terms."*

13.1. Equally relevant is case-law of *In re: Mohd. Zia Ul Haque reported in 2014 (314) E.L.T. 849 (G.O.I.),* wherein the very same issue has been analysed by the Government of India. The relevant portion of the same is reproduced below: -

> *"8. Applicant has mainly challenged the order of absolute confiscation of gold jewellery and for not condoning the delay of 22 days in filing appeal. In this regard, Government notes that Hon'ble Supreme Court in the case of Collector Land*

Acquisition Anantnag & Other v. Mst. Katiji and Others 1987 (28) E.L.T. 185 (S.C.) has held that when delay is within condonable limits laid down by the statute, the discretion vested in the authority to condone such delay is to be exercised following principles laid down in the judgment.

In view of principles laid down by Apex Court in the said judgment, the delay of 22 days merit condonation in view of reasons explained by applicant. Therefore, Government condones the said delay.

8.1 Government notes that applicant is the owner of said gold and the said fact is also clear from the bills produced by the applicant. Applicant has pleaded to release the said gold on payment of redemption fine in terms of Section 125 of Customs Act, 1962. The gold was absolutely confiscated relying on the judgment of Hon'ble High Court of Madras in the case of CC (Air), Chennai v. Samynathan Murugesan 2009 (247) E.E.T. 21 (Mad.). In the said cited case the passenger had imported 7.075 kgs of gold ornaments which were concealed inside the Television set to avoid detection by Customs. In the absence of intelligence gathered by Customs, passenger would have got cleared the jewellery with the T.V. The concealment in the said manner by adopting this unique modus operandi had weighed in the mind of the adjudicating authority for ordering absolute confiscation which was upheld by Han'ble High Court. But in this case the gold was not concealed in any ingenious manner and therefore facts of both the cases are different. As such ratio of said judgment is not squarely applicable to this case.

8.2 Applicant has pleaded for allowing redemption of gold under Section 125 ibid. In this regard case is tobe decided in view of the judgment of Hon'ble High Court of Madras dated 1-4-2008 in writ appeal Nos. 1488, 1502 & 1562 of 2007 in the case of Neyveli Lignite Corporation Ltd. v. UOI 2009 (242) E.LT. 487 (Mad.) wherein it was held "Redemption fine Prohibited goods, discretion Section 125 of Customs Act, 1962-If goods are not prohibited then adjudicating officer shall give to the owner of goods option to pay redemption fine in lieu of confiscation as officer thinks fit. It is only when it is prohibited goods that the officer has discretion and it is open to him not to give the option to pay fine in lieu of confiscation." Government observes that such *discretion is to be exercised judiciously. In the instant case, the passenger is neither a habitual offender nor carrying the said goods for somebody else. He is the owner of the goods and concealment was not is an ingenious manner. There is a merit in the pleading of applicant that goods should be allowed to be redeemed on payment of redemption fine and therefore said plea is acceptable.*

8.3 As regards, the pleading to release the laptop unconditionally, Government finds that one laptop computer is allowed to be imported duty free by every passenger in terms of Notification No. 11/2004-Cus., dated 8-1-2004. So there is no case for its confiscation. Government therefore set aside the confiscation of said laptop computer and allows its duty free clearance. The confiscation of other mobiles/I-Phone is upheld. However, combined redemption fine in respect of mobiles/I-phone is modified to Rs. 6,000/.

9. In view of above discussions, Government allows the redemption of said gold jewellery on payment of redemption fine of Rs. 7,50,000/- (Rupees seven lakhs and fifty thousand only) in lieu of confiscation under Section 125 of Customs Act, 1962. Keeping in view the overall circumstances of the case, the penalty under Section 112 appears on higher side and therefore same is reduced to Rs. 3,00,000/- (Rupees three lakhs only). Since the ends of justice will be met by imposition of penalty under Section 112 of Customs Act, Government sets aside the penalty imposed under Section 114A ibid. The option to redeem the gold may be exercised within. 2 months of the receipt of the order. The impugned order-In-appeal is modified to this extent."

14. I have also carefully considered the decisions relied upon by the Ld. Authorized Representative of the Revenue, namely, *Nidhi Kapoor v. Principal Commissioner & Additional Secretary to the Government of India (Delhi High Court, decided on 21.08.2023) (supra)* and *Rameshwar Tiwari v. Union of India (Delhi High Court, decided on 20.03.2024) (supra).* However, I find that the said decisions are clearly distinguishable on facts and do not advance

the case of the Revenue. In both the aforesaid matters, (a) the goods involved were predominantly gold bars, cut pieces or other forms of primary gold and further (b) were collectively weighing approximately 3100 grams and 3203.900 grams, respectively, thereby unmistakably exhibiting the character of commercial quantity. The present case, on the other hand, concerns two gold bangles and one gold chain, collectively weighing 418.000 grams, which are finished gold ornaments and not primary gold in the nature of bars or bullion. It is equally significant that one of the seized articles, namely the gold chain, was being worn by the appellant around his neck at the time of interception, lending support to the appellant's plea regarding the personal character of the articles. It is no doubt well settled that cases involving importation of gold in commercial quantity, particularly in the form of bars or bullion, ordinarily warrant a stricter approach and may justify absolute confiscation having regard to the attendant circumstances. The factual matrix obtaining in the present proceedings, however, stands on an entirely different footing and, therefore, the ratio of the aforesaid decisions relied upon by the Revenue cannot be mechanically extended to the case on hand. I am, accordingly, of the considered view that the said decisions cited by the Revenue are distinguishable on facts and do not preclude the grant of redemption under Section 125 of the Customs Act, 1962.

15. Having regard to the entirety of the facts and circumstances obtaining in the present case, I am of the considered opinion that the ends of justice would be adequately served by adopting a balanced approach. While the confiscation of the impugned gold ornaments is liable to be sustained, the appellant

deserves to be extended the statutory benefit of redemption under Section 125 of the Customs Act, 1962. Equally, I find that the penalty of Rs.6,00,000/- imposed upon the appellant is disproportionately severe, particularly when the material on record does not disclose any previous involvement in similar activities or any circumstance indicating that the appellant was part of an organised smuggling network. As it appears that the Appellant has brought the ornaments for his own use, for which an appropriate but moderated penalty would sufficiently meet the ends of justice.

16. Consequently, while upholding the confiscation of the impugned two (02) gold bangles and one (01) gold chain, collectively weighing 418.000 grams and valued at Rs.12,54,000/-, I modify the impugned orders to the extent that the appellant shall be entitled to redeem the confiscated gold ornaments on payment of a redemption fine of Rs.1,00,000/- (Rupees One Lakh only) under Section 125 of the Customs Act, 1962. The penalty imposed upon the appellant under Sections 112(a), 112(b) and 114AA of the Act is also reduced from Rs.6,00,000/- to Rs.50,000/- (Rupees Fifty Thousand only). The Appellant should exercise this option to redeem the gold ornaments within a period of one month from the date of receipt of this order, failing which the option offered for redemption of the gold ornament would lapse.

17. The impugned order stands modified on the above terms.

18. Thus, the appeal filed by the Appellant is allowed in part on the above terms, with consequential relief, if any, as per law.

(Order pronounced in the open court on **20.07.2026**)

Sd/-
(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

Sdd