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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 29.04.2026

PRONOUNCED ON : 23.07.2026

CORAM

**THE HON'BLE MR.JUSTICE MOHAMMED SHAFFIQ**

**WP Nos.14994, 15007 and 15022 of 2025**
**and**
**WMP Nos.16895, 16911, 16928 and 16929 of 2025**

Smt.Geetha
W/o.Shri Kannathasan,
47/2, Puttu Thoppu Main Road,
Arapalayam, Madurai-625019.

..Petitioner(s)

Vs

1. The Union of India
   Rep By Additional Secretary To Government,
   Department Of Revenue, 14, Hudco Visala Building, D Wing, 6th Floor, Bhikhaji Cama Place, New Delhi- 110 066

2. The Commissioner of Customs (appeals-1)
   Chennai Airport And Amp, Chennai Cargo, 3rd Floor, New Custom House, Gst Road, Meenambakkam, Chennai 600016

3. The Principal Commissioner of Customs,
   Commissionerate-1, Chennai Airport And Air Cargo Complex, New Custom House, Gst Road, Meenambakkam, Chennai 600016

4. Joint Commissioner of Customs (adjudication-air), Chennai Airport And Air Cargo Complex, New Custom House, Gst Road, Meenambakkam, Chennai 600016

..Respondent(s)


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**WP No.15007 of 2025:**

Shri.Madhan Kumar
S/o.Shri Kannathasan, 47/2, Puttu Thoppu Main Road, Arapalayam, Madurai 625019

..Petitioner(s)

Vs

1. The Union of India
   Rep By Additional Secretary To Government, Department Of Revenue, 14, Hudco Visala Building, D Wing, 6th Floor, Bhikhaji Cama Place, New Delhi- 110 066

2. The Commissioner of Customs (appeals-1)
   Chennai Airport And Amp, Chennai Cargo, 3rd Floor, New Custom House, Gst Road, Meenambakkam, Chennai 600016

3. The Principal Commissioner of Customs,
   Commissionerate-1, Chennai Airport And Air Cargo Complex, New Custom House, Gst Road, Meenambakkam, Chennai 600016

4. Joint Commissioner of Customs (adjudication-air)
   Chennai Airport And Air Cargo Complex, New Custom House, Gst Road, Meenambakkam, Chennai 600016

..Respondent(s)

**WP No.15022 of 2025:**

Shri.M.K.Kannathasan
S/o.Shri M.Krishnan Chettiar, 47/2, Puttu Thoppu Main Road, Arapalayam, Madurai 625019

..Petitioner(s)

Vs

1. The Union of India
   Rep By Additional Secretary To Government, Department Of Revenue, 14, Hudco Visala Building, D Wing, 6th Floor, Bhikhaji Cama


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Place, New Delhi- 110 066

2. The Commissioner of Customs (appeals-1)
Chennai Airport And Amp, Chennai Cargo,
3rd Floor, New Custom House, Gst Road,
Meenambakkam, Chennai 600016

3. The Principal Commissioner of Customs,
Commissionerate-1, Chennai Airport And Air
Cargo Complex, New Custom House, Gst
Road, Meenambakkam, Chennai 600016

4. Joint Commissioner of Customs (adjudication-
air)
Chennai Airport And Air Cargo Complex, New
Custom House, Gst Road, Meenambakkam,
Chennai 600016

..Respondent(s)

PRAYER in W.P.No.14994 of 2025: Writ Petition filed under Article 226 of the Constitution of India praying for a writ of Certiorarified mandamus to call for the records in Order No.211-213/23-Cus, dated 05.09.2023 passed by the 1st Respondent, Order in C.Cus.I 93-95/ 2018/Air, dated 11.10.2018 passed by the 2nd Respondent and Order No.24/2018-19-Commissionerate-1, dated 05.05.2018 passed by the 4th Respondent and quash the same and to direct the Respondents to release the gold ornaments including thali chain by the impugned proceedings to the Petitioner on payments of fine under section 125 of customs Act, within a stipulated time-limit fixed by this Court.

PRAYER in WP No.15007 of 2025: Writ Petition filed under Article 226 of the Constitution of India praying for a writ of Certiorarified mandamus to call for the records in Order No.211-213/23-Cus, dated 05.09.2023 passed by the 1st Respondent, Order in C.Cus.I 93-95/ 2018/Air, dated 11.10.2018 passed by the 2nd Respondent and Order No.26/2018-19-Commissionerate-1, dated 05.05.2018 passed by the 4th Respondent and quash the same and to direct the Respondents to release the gold ornaments confiscated by the impugned


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proceedings to the Petitioner on payments of fine under section 125 of customs Act, within a stipulated time-limit fixed by this Court.

PRAYER in WP No.15022 of 2025: Writ Petition filed under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus to call for the records in Order No.211-213/23-Cus, dated 05.09.2023 passed by the 1st Respondent, Order in C.Cus.I 93-95/ 2018/Air, dated 11.10.2018 passed by the 2nd Respondent and Order No.25/2018-19-Commissionerate-1, dated 05.05.2018 passed by the 4th Respondent and quash the same and to direct the Respondents to release the gold ornaments confiscated by the impugned proceedings to the Petitioner on payments of fine under section 125 of Customs Act, within a stipulated time-limit fixed by this Court.

| | |
|---|---|
| For Petitioner(s):<br>in all cases | Mr.P.V.S.Giridharan<br>for M/s.P.V.S.Giridharan Associates |
| For Respondent(s):<br>in all cases | Mr.ARL.Sundaresan<br>Additional Solicitor General of India<br>for Ms.Anu Ganesan<br>Junior Panel Counsel |

**COMMON ORDER**

These writ petitions are filed challenging orders dated 05.09.2023, 11.10.2018 and 05.05.2018 and consequently direct the respondents to release the gold ornaments confiscated by impugned proceedings to petitioner on payments of fine under Section 125 of Customs Act. These writ petitions challenge the order directing absolute confiscation of gold ornaments seized on their arrival from Dubai. Petitioners seek release of gold on payment of


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redemption fine under Section 125 of the Customs Act, 1962, while claiming that seized gold is not a prohibited item.

**2. Brief facts:**

Petitioners viz., Geetha, Madhan Kumar and Kannathasan are members of the same family, arrived on 20.02.2018 at Chennai from Dubai after a stay of four days. Petitioners proceeded through Green Channel, they were intercepted by customs authorities and on being questioned as to whether they were carrying any dutiable gold or goods, answered in the negative. A personal search was conducted. On such search, 332 grams, 282 grams and 382 grams, were recovered from petitioners viz., Madhan Kumar, Kannathasan and Geetha, in all 996 grams of 24-carat gold ornaments, valued at Rs.30,60,708/-, allegedly concealed beneath their clothing, were recovered. Customs authorities seized the gold under a mahazar and initiated proceedings, culminating in orders of absolute confiscation. Aggrieved, petitioners preferred an appeal before the 2nd respondent, the same was disposed vide order dated 11.10.2018, whereby penalty under Section 114 A of the Act was set aside while confirming the order of 4th respondent on other aspects. Petitioner carried the matter in revision before 2nd respondent wherein orders of the 3rd respondent was confirmed. Aggrieved, petitioner filed these writ petitions.


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3. Before proceeding further, I shall refer to the relevant portions of the order of authorities below:

3.1. Order of Adjudicating authority / 4th respondent:

3.1.1. Adjudicating authority recorded the following facts:

a. Petitioners failed to declare imported gold despite numerous opportunities.

b. Petitioners attempted to pass through Green channel without declaring the gold imported.

c. Gold jewellery were 24 carat, a device to smuggle gold.

d. Gold was concealed under the dress to avoid being visible.

e. Petitioners in their statement under Section 108 of the Act admitted that they attempted to smuggle gold on behalf of unknown persons.

f. During personal hearing statement was retracted by petitioners who claimed ownership of gold and produced sale bills of Chennai Jewellers, petitioners however failed to produce proof of payment for such gold.

g. Petitioners went with family on a tour abroad for three days.

h. Petitioners are ineligible passengers to import gold of quantity seized and confiscated. Non-compliance with conditions to import gold seized/confiscated results in mutation of restricted good to – "*prohibited goods*".


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3.1.2. After recording the above facts 4th respondent passed the order of confiscation while rejecting request for redemption. The relevant portions of the order is extended hereunder:

> "*In such a scenario, the gold attempted to be smuggled into India is liable for absolute confiscation u/s 111 (d) & (l) of the Customs Act, 1962. Regarding the request for relief under section 125 as claimed by the passenger, it is clear that under section 125 option of redemption in lieu of confiscation is not mandatory to goods the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force. The adjudicating officer has to consider the facts and circumstances of the case and decide accordingly. As discussed earlier the passenger had attempted to smuggle the gold on behalf of someone and thus acted as a carrier. An attempt to smuggle the gold was made by way of non-declaration and concealment on person with an intention to avoid detection by customs and thus had a culpable mind to take away the gold clandestinely. Considering the above facts and the conduct of the passenger does not warrant and justify redemption in lieu of confiscation.*
>
> *I also observe that the gold concealed by the passenger does not constitute to be the bonafide baggage which includes household goods and personal effects only. I also find that the passenger in her statement had accepted the fact of smuggling the gold. By indulging in these illegal activities, the passenger has violated the various provisions of the Customs Act, 1962 read with Section 3 (3) of the Foreign Trade (Development & Regulations),*


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*Act, 1992 mentioned at Para (7) above rendering herself liable for penal action."*

3.2. Order of 1st Appellate Authority/ 2nd respondent:

"12. *I find that in view of overall circumstances of the case and considering the nature of concealment, purity of gold, mode of carriage, ownership (the appellants have stated that they purchased the impugned gold, however, no purchase receipts were produced by them), etc, their culpable statements admitting the guilt. Further, the appellants are not eligible to import gold into India and did not possess any valid document/permit for the said import. The intent to smuggle gold to defraud the exchequer from its legitimate claim is clearly established and Appellants are liable for the penal consequences along with absolute confiscation of gold for alleged contravention of Customs Act, 1962, Foreign Trade (Development and Regulation) Act, 1992. The defense put forth by appellants now is an afterthought without any basis. The appellants as close relatives (Due to Common Address) try to smuggle Rs 30 lakhs worth of Crude Gold into India without declaring and clandestinely removing for maximisation of their unjust gain by defrauding exchequer is a serious offence."*

3.3. Order of Revisional authority:

" *The entire sequence of events has been recorded in Mahazar drawn on spot. The Applicants were intercepted while they were about to leave the arrival hall of the airport without making any declaration in respect of gold items carried by them.*


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*They declined the possession of gold even when they were given ample opportunities to declare as to whether they were in possession of gold or gold jewellery. In their respective statements under Section 108 of the act ibid to customs also, the Applicants had admitted the recovery of gold items found on their person and that they intended to clear those goods without payment of Customs duty. These statements are admissible as evidence under the Indian Evidence Act, 1872, as amended. The Government further observes proceedings recorded in the Mahazar in presence of two independent witnesses have not been disputed with any evidence. Therefore, the sequence of events recorded in the Mahazar has to be relied upon. In this light, the contention of the Applicants that the seized gold items belonged to them appears to be an afterthought. Therefore, it is difficult to accept that that the statements made by the Applicants during their interception were not voluntary, Reliance is placed upon Hon'ble Supreme Court's judgement, in the case of Surjeet Singh Chhabra vs. UOI {1997 (89) ELT 646 (SC)}, where it was held that confession statement before Customs officer, even though retracted within six days, is an admission and binding."*

**4. <u>Case of Petitioners:</u>**

4.1. Learned Senior Advocate, Mr.P.V.S.Giridharan, appearing for the Petitioners raised the following contentions:

a) Gold in question comprised personal jewellery worn by the Petitioners during travel.

b) Gold is not a prohibited good under the Customs Act and that


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authorities erroneously treated the ornaments as smuggled goods and ordered absolute confiscation.

c) Distinction between prohibited goods and restricted goods assumes significance, in the context of Section 125 of the Customs Act, and that petitioners ought to have been afforded the option of redemption on payment of fine.

d) Baggage Rules have no application to personal jewellery worn by a passenger.

e) That impugned proceedings are vitiated by violation of principles of natural justice.

4.2. In support of the above contention, following judgments were relied:

*i) Commr. of Customs v. Rajesh Jhamatmal Bhat, (2025) 150 GSTR 357 : 2022 SCC OnLine All 2625 : (2022) 5 All LJ 193 : (2022) 382 ELT 345;*

*ii) Horizon Ferro Alloys P. Ltd. v. UOI, (2017) 42 GSTR 227 : 2016 SCC OnLine P&H 4706 : (2016) 340 ELT 27.*

**5. <u>Case of Respondents:</u>**

5.1. Learned Additional Solicitor General of India, appearing for the Respondents submitted as follows:

a) That petitioners had deliberately concealed the 24-carat gold ornaments by wearing sweaters over them with the intention of evading customs duty.


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b) That petitioners were not eligible passengers, had not declared the gold, and did not possess any valid documents or permits for its lawful import.

c) Gold, having been imported in violation of statutory provisions and intentionally concealed, constituted prohibited goods, thereby warranting confiscation and refusal to grant the benefit of redemption under Section 125 of the Customs Act by the adjudicating authority, appellate authority and in revision is well-reasoned and does not warrant interference.

6. Heard both sides, perused the materials on record.

7. Against the above background, the short question that arises for consideration is whether gold worn by petitioners viz., Geetha, Kannathasan and Madhan Kumar weighing less than 1kg and confiscated can be redeemed on payment of fine as a matter of right or is it left to the discretion of authorities, if so, whether order refusing redemption in exercise of such discretion warrants interference in these writ petitions.

8. To answer the above question, it may be relevant to refer to Section 125 of the Customs Act, the same is extracted hereunder:

> *"125. Option to pay fine in lieu of confiscation.—(1) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation*


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*or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods [or, where such owner is not known, the person from whose possession or custody such goods have been seized,] an option to pay in lieu of confiscation such fine as the said officer thinks fit:*

*[Provided that where the proceedings are deemed to be concluded under the proviso to sub-section (2) of section 28 or under clause (i) of sub-section (6) of that section in respect of the goods which are not prohibited or restricted, the provisions of this section shall not apply:*

*Provided further that], without prejudice to the provisions of the proviso to sub-section (2) of section 115, such fine shall not exceed the market price of the goods confiscated, less in the case of imported goods the duty chargeable thereon.*

*[(2) Where any fine in lieu of confiscation of goods is imposed under sub-section (1), the owner of such goods or the person referred to in sub-section (1), shall, in addition, be liable to any duty and charges payable in respect of such goods.]*

*[(3) Where the fine imposed under sub-section (1) is not paid within a period of one hundred and twenty days from the date of option given thereunder, such option shall become void, unless an appeal against such order is pending.*

*Explanation.—For removal of doubts, it is hereby declared that in cases where an order under sub-section (1) has been passed before the date on which the Finance Bill, 2018 receives the assent of the President and no appeal is pending against such order as on that date, the option under said sub-section may be exercised within a period of one hundred and twenty days from the*


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*date on which such assent is received.] "*

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9. The primary question raised by petitioners is as to whether restricted goods in the present case "gold", by virtue of non-compliance with the conditions attached to import would result in metamorphosis of such restricted goods into "prohibited goods". The answer to the above question would have an impact with regard to the complexion of the right of the petitioner, with regard to the option to pay fine in lieu of confiscation under Section 125 of the Act. It is beyond doubt that while in the case of goods which are not prohibited, option of redemption on payment of fine under Section 125 of the Act is a matter of right, while in the case of prohibited goods, authority is vested with a discretion to either extend the above option or refuse, depending on a variety of factors.

10. The question whether failure to comply with the conditions in respect of restriction on import would result in mutation of such goods as "prohibited goods" is no longer *res integra.* It is relevant to refer to the following judgments:

**(i) *Sk. Mohd. Omer v. Collector of Customs*, (1970) 2 SCC 728**

*"11. ...What clause (d) of Section 111 says is that any goods which are imported or attempted to be imported contrary to "any prohibition imposed by any law for the time being in force in this country" is liable to be confiscated. "Any prohibition" referred to in that section applies to every type of "prohibition". That*


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*prohibition may be complete or partial. Any restriction on import or export is to an extent a prohibition. The expression "any prohibition" in Section 111(d) of the Customs Act, 1962 includes restrictions. Merely because Section 3 of the Imports and Exports (Control) Act, 1947, uses three different expressions "prohibiting", "restricting" or "otherwise controlling", we cannot cut down the amplitude of the word "any prohibition" in Section 111(d) of the Act. "Any prohibition" means every prohibition. In other words all types of prohibitions. Restriction is one type of prohibition. From Item (I) of Schedule I, Part IV to Import Control Order, 1955, it is clear that import of living animals of all sorts is prohibited. But certain exceptions are provided for. But nonetheless the prohibition continues."*

**(ii) *Om Prakash Bhatia v. Commr. of Customs*, (2003) 6 SCC 161 : 2003 SCC OnLine SC 667:**

**"***10. ..... This would mean that if the conditions prescribed for import or export of goods are not complied with, it would be considered to be prohibited goods. This would also be clear from Section 11 which empowers the Central Government to prohibit either "absolutely" or "subject to such conditions" to be fulfilled before or after clearance, as may be specified in the notification, the import or export of the goods of any specified description. The notification can be issued for the purposes specified in sub-section (2). Hence, prohibition of importation or exportation could be subject to certain prescribed conditions to be fulfilled before or*


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*after clearance of goods. If conditions are not fulfilled, it may amount to prohibited goods."*

*(emphasis supplied)*

11. Before proceeding further, it may be relevant to note that import of "gold bars", during the relevant period i.e. on 20.02.2018 was governed by Notification No. 12/2012-Cus dated 17.3.2012, amended vide Notification No. 26/2012-Cus dated 18.4.2012, while "jewellery" was governed by the Baggage Rules, 2016. If the import of the 24-carat gold in the form of jewellery is to be treated as import of "gold bars", then the same would be governed by the above notification, the relevant portion of which reads as under:

| **S. No.** | **Chapter or Heading or sub-heading or tariff item** | **Description of goods** | **Standard rate** | **Additional duty rate** | **Condition No.** |
|---|---|---|---|---|---|
| (1) | (2) | (3) | (4) | (5) | (6) |
| 321 | 71 or 98 | Gold bars, other than tola bars, bearing manufacturer's or refiner"s engraved serial number and weight expressed in metric units, and gold coins having gold content not below 99.5%, imported by the eligible passenger | 4% | Nil | 35 |



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| Condition No. | Conditions |
|---|---|
| 35. | If,-<br>1.<br>(a) the duty is paid in convertible foreign currency;<br>(b) the quantity of import does not exceed ten kilograms of gold and one hundred kilograms of silver per eligible passenger; and<br><br>2. the gold or silver is,-<br>(a) carried by the eligible passenger at the time of his arrival in India, or<br>(b) imported by him within fifteen days of his arrival in India, or<br>(c) is taken delivery of from a customs bonded warehouse of the State Bank of India or the Minerals and Metals Trading Corporation Ltd., subject to the conditions 1 ;<br><br>provided such eligible passenger files a declaration in the prescribed form before the proper officer of customs at the time of his arrival in India declaring his intention to take delivery of the gold or silver from such a customs bonded warehouse and pays the duty leviable thereon before his clearance from customs.<br><br>Explanation.- For the purposes of this notification, “eligible passenger” means a passenger of Indian origin or a passenger holding a valid passport, issued under the Passports Act, 1967 (15 of 1967), who is coming to India after a period of not less than six months of stay abroad; and short visits, if any, made by the eligible passenger during the aforesaid period of six months shall be ignored if the total duration of stay on such visits does not exceed thirty days and such passenger has not availed of the exemption under this notification or under the notification being superseded at any time of such short visits. |


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12. The above Condition No. 35 was subsequently amended vide Notification No. 26/2012-Cus dated 18.04.2012, whereby clause (b) of paragraph 1 was substituted as under:

> *"(b) to total quantity of gold under items (i) and (ii) of Sr. No.321 does not exceed one kilogram and the quantity of silver under Sr. No.322 does not exceed ten kilograms per eligible passenger;"*

13. The above conditions have admittedly not been complied with, viz., Condition No. 35, inasmuch as the Petitioners have neither paid the duty in convertible foreign currency nor filed a declaration before the customs officer at the time of their arrival. Further, the Petitioners do not qualify as eligible passengers, having stayed abroad for only 4 days as against the requisite period of 6 months prescribed under the above notification.

14. Assuming that these are jewellery, though admittedly these are of 24-carat purity, nevertheless, it would be governed by the Baggage Rules, 2016. Rule 5 of Baggage Rules, 2016 may be relevant and reads as under,

> "*A passenger residing abroad for more than one year, on return to India, shall be allowed clearance free of duty in his bona fide*


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*baggage of jewellery upto a weight, of twenty grams with a value cap of fifty thousand rupees if brought by a gentleman passenger, or forty grams with a value cap of one lakh rupees if brought by a lady passenger.*"

15. Rule 5 of Baggage Rules permits import of only 40 grams of gold jewellery in case of women and 20 grams of gold jewellery in case of men. Clearly, what is imported is in excess of whatever is permitted to be imported as jewellery in terms of Baggage Rules, 2016. Further, admittedly, the petitioners had stayed abroad only for 4 days, thus falling short of 1 year as required in terms of the above Rule. Thus, Rule 5 may not come to the aid of Petitioners, even in respect of the import of jewellery to the extent permitted therein.

16. In view of the above, this Court finds that the restrictions contained with reference to the import of gold has not been satisfied and, thus, the gold which is restricted would mutate into prohibited goods.

17. Keeping the above aspect in mind, question that arises whether petitioners' right of redemption is a matter of right under Section 125 of the Act and if not whether the impugned order of the authorities below refusing to exercise discretion and rejecting the request of petitioners to redeem the


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imported gold warrants interference.

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18. This Court finds that redemption of confiscated goods, if prohibited, cannot be claimed as a matter of right, though Section 125 of the Act confers discretion on the authority while examining a request for redemption of prohibited goods confiscated under Section 125 of Customs Act.

19. It may be relevant to refer to the following judgments:

**a)** ***Nidhi Kapoor v. Commr.*****, (2024) 133 GSTR 160 : 2023 SCC OnLine Del 5099,** the relevant portions of the order is extracted below:

*"61. The case of Abdul Razak v. Union of India [(2012) 275 ELT 300 (Ker).] was one where an attempt was made to smuggle gold by concealing the same in emergency lights, mixie-grinders and car horns weighing about 8 kg. It was held that "although gold as such is not a prohibited item and can be imported, such import*

*is subject to a lot of restrictions including necessity to declare the goods on arrival at the customs station and make payment of duty at the rate prescribed". It was further held that "goods brought by*


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*indulging in smuggling would amount to importation of prohibitory goods and the appellant was not entitled as a matter of right to claim release of gold on payment of redemption fine and duty". It is pertinent to mention that the above referred decision was challenged by the appellant/assessee in SLP (Civil) CC No. 5192/2012 before the Supreme Court of India and the same was dismissed.*

*...*

*156. The court holds that an infraction of a condition for import of goods would also fall within the ambit of section 2(33) of the Act and thus their redemption and release would become subject to the discretionary power of the adjudging officer. For reasons aforenoted, the court finds no illegality in the individual orders passed by the adjudging officer and which were impugned in these writ petitions."*

**b) *Commr. of Cus. v. P. Sinnasamy*, (2017) 42 GSTR 322 : 2016 SCC OnLine Mad 22055 at page 376**

***"41.** In the case on hand, when discretion is conferred on the adjudicating authority, under section 125 of the Customs Act, 1962, as to whether, gold and other goods seized, should be confiscated absolutely or be permitted to be redeemed on payment of fine, on the facts and circumstances of the case, and considering the statutory provisions and notification, he has ordered absolute confiscation of gold and other goods, used for import and released certain goods on payment of fine and duty. Exercise of discretion has been interfered with by the Tribunal, with a specific direction*


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*to give option for redemption, in which event, there is no choice left to the adjudicating authority to act. He has no freedom or liberty to act, according to his own will and that he has been compelled to exercise discretion and his power, without control, other than his own judgment and in this context, let us consider, what the hon'ble apex court has said on exercise of discretion.*

***56.** At the time, when discretion is exercised under section 125 and if any challenge is made under article 226 of the Constitution of India, the twin test, to be satisfied is "relevance and reason". In the light of the judgments of the hon'ble apex court and applying the same to the facts of this case and testing the discretion exercised by the authority, on both subjective and objective satisfaction, as to why, the goods seized, cannot be released, when smuggling is alleged and on the materials on record, we are of the view that the discretion exercised by the competent authority, to deny release, is in accordance with law. Interference by the Tribunal is against law and unjustified."*

20. The order of the lower authorities discussed supra shows that they had applied their mind and refused exercise of discretion after finding that failure to comply with conditions for import of gold would result in mutation of the same as prohibited goods. Therefore, this Court finds that exercise of discretion by the authorities below is well-founded and on proper appreciation of material on record. It is trite that this Court under Article 226 of the Constitution of India would not interfere with exercise of discretionary power unless shown to be


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perverse or arbitrary. Thus, the impugned order does not warrant interference.

21. Accordingly, these writ petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

**23.07.2026**

Index: Yes/No
Neutral Citation : Yes/No
Speaking / Non Speaking order
mka/mrn
To:

1. The Additional Secretary To Government, Department Of Revenue, 14, Hudco Visala Building, D Wing, 6th Floor, Bhikhaji Cama Place, New Delhi- 110 066

2. The Commissioner Of Customs (appeals-1) Chennai Airport And Amp, Chennai Cargo, 3rd Floor, New Custom House, Gst Road, Meenambakkam, Chennai 600016

3. The Principal Commissioner Of Customs, Commissionerate-1, Chennai Airport And Air Cargo Complex, New Custom House, Gst Road, Meenambakkam, Chennai 600016

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**MOHAMMED SHAFFIQ J.**

mka/mrn

**WP Nos.14994, 15007 and 15022 of 2025**

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