Case Citation: (2026) taxcode.in 1579 HC

Order QR

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-09-2026

CORAM

THE HON'BLE MR.JUSTICE HEMANT CHANDANGOUDAR

WP No. 21341 of 2025

Mrs.Ajmunbi Shaik

..Petitioner(s)

Vs

1. The Chief Commissioner of Customs,
   Custom House, Rajaji Salai, Chennai-1.

2. The Commissioner Of Customs (Appeals-I),
   Chennai,
   3rd Floor, Customs House, GST Road,
   Meenambakkam, Chennai-600 016.

3. The Addl. Commissioner of Customs
   (Adjudication-Air)
   Anna International Airport, Chennai-1,
   Commissionerate, New Customs House,
   Meenambakkam, Chennai-600 016.

..Respondent(s)

Prayer: Writ Petition under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus to call for the record issued by the 2nd Respondent dated 01.04.2025 to quash the same and consequently and direct the respondent to release the petitioner's jewellery on payment of penalty and the necessary duty or to re export the goods to Kuwait.

For Petitioner(s): Mr.G.M.SYED FASI MOHAMMED

For Respondent(s): Mr. J. VASU, JPC

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The petitioner challenges the order dated 01.04.2025 passed by the second respondent, whereby the appeal preferred by the petitioner under Section 128(1) of the Customs Act, 1962, came to be dismissed, thereby confirming the order-in-original passed under Section 125 of the said Act.

2.The facts of the case, in brief, are as follows:

(i)On 06.09.2023, the petitioner arrived in India at the Anna International Terminal, Chennai Airport, from Kuwait. She was intercepted by the Customs Air Customs Unit Officer at the exit gate of the arrival hall on a reasonable suspicion that she might be carrying gold or other contraband goods either in her baggage or on her person. On being questioned as to whether she was carrying gold or any other dutiable goods in her baggage or on her person, the petitioner answered in the negative.

(ii)Not being satisfied with her reply, the Customs officers conducted a search, during which assorted gold jewellery of 24K purity, weighing 714 grams, and assorted gold jewellery of 22K purity, weighing 88 grams, were found concealed on her person and recovered. As the petitioner was not in possession of any valid permit, licence or other documents authorising the legal

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import of the gold, and as she had attempted to smuggle the same by non-declaration and concealment, the gold jewellery was seized under Section 110(1) of the Customs Act, 1962.

(iii)In her voluntary statement, the petitioner stated that the gold jewellery had been handed over to her by one Shri Sharif near the entrance of Kuwait Airport, with instructions to smuggle the same by evading Customs detection and to hand it over to an unknown person waiting outside Chennai Airport, who would identify her with the help of her photograph.

(iv)The petitioner sought redemption of the seized gold jewellery in lieu of confiscation on payment of redemption fine. The adjudicating authority rejected the request. Aggrieved thereby, the petitioner preferred an appeal before the second respondent, which also came to be dismissed by the impugned order.

3.Learned counsel for the petitioner submitted that the adjudicating authority as well as the appellate authority ought to have exercised the discretion vested in them under Section 125 of the Customs Act by permitting redemption of the confiscated gold jewellery on payment of an appropriate redemption fine. It was contended that the petitioner was not a habitual offender and that this was her first violation under the Customs Act. Therefore, according

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to the learned counsel, the discretion under Section 125 ought to have been exercised in favour of the petitioner.

(i)In support of the said contention, reliance was placed on the following decisions:

(i) *Rayavarapu Sri Devi v. The Principal Commissioner of Customs*, W.P. No.6734 of 2022, decided on 19.02.2024;

(ii) *Raju Sharma v. Union of India*, [2020 (372) E.L.T. 249 (Del.)];

(iii) *Commissioner of Customs v. Rajinder Nirula*, [2017 (346) E.L.T. 9 (Bom.)];

(iv) *Additional Director General (Adjudication) v. Its My Name Pvt. Ltd.*, [2021 (375) E.L.T. 545 (Del.)];

(v) *Mohd. Ayaz v. Union of India*, [2003 (151) E.L.T. 39 (Del.)]; and

(vi) *Sri Gampala Sankara Rao v. Principal Commissioner of Customs, Telangana*, [2025 (11) TMI 970].

4.Per contra, learned counsel for the respondents submitted that the petitioner had attempted to import the gold jewellery without declaring the same to the Customs authorities. It was further contended that the jewellery falls within the definition of "prohibited goods" under Section 2(33) of the Customs Act and that the petitioner had failed to establish lawful possession or lawful

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import of the same. Therefore, according to the respondents, the adjudicating authority had rightly exercised its powers and confiscated the jewellery. It was submitted that the impugned order does not warrant interference.

5.The submissions of the learned counsel for the parties have been considered.

6.Section 125 of the Customs Act provides for an option to pay a redemption fine in lieu of confiscation. In the case of prohibited goods, the adjudicating authority may grant such an option, whereas, in the case of goods other than prohibited goods, such an option shall be granted. Thus, in the case of prohibited goods, the power to permit redemption is discretionary.

7.However, such discretion cannot be exercised mechanically merely because the goods fall within the category of prohibited goods. The discretion under Section 125 has to be exercised judiciously, having regard to the facts and circumstances of each case.

8.In the present case, the value of the confiscated gold jewellery is Rs.42,19,322/-. There is nothing on record to indicate that the petitioner has

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committed any serious or previous violation of the provisions of the Customs Act. It is also not in dispute that a penalty of Rs.4,00,000/- had been imposed on the petitioner and that the said penalty has already been paid.

9.The second proviso to Section 125 of the Customs Act provides that the redemption fine shall not exceed the market price of the confiscated goods, less the duty chargeable thereon, wherever applicable. In the decisions relied upon by the petitioner, the Courts have upheld the release of confiscated foreign currency on payment of redemption fine, which was generally fixed at about 10% of the value of the confiscated goods. Therefore, while determining the redemption fine in the present case, the adjudicating authority shall keep in view the principles laid down in the aforesaid decisions, as well as the limits prescribed under Section 125 of the Customs Act.

10.In view of the above, the writ petition is allowed. The impugned order dated 01.04.2025 is set aside insofar as it rejects the petitioner's request for release of the confiscated gold jewellery on payment of redemption fine.

(i)The third respondent is directed to determine the redemption fine payable by the petitioner in accordance with Section 125 of the Customs Act and in the light of the principles laid down in the decisions referred to above.

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Upon payment of the redemption fine so determined, the confiscated gold jewellery shall be released to the petitioner.

(ii)The entire exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.

10-09-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
SLI

To

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3rd Floor, Customs House, GST Road,
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HEMANT CHANDANGOUDAR, J.

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