Case Citation: (2026) taxcode.in 1670 HC

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	: 05.08.2026
Delivered on	: 01.10.2026

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No. 22231 of 2026
and
W.M.P.(MD) No.16586 of 2026

S.Michael Kennadi

Petitioner(s)

Vs

1.The Revision Authority
Government of India
Ministry of Finance
Department of Revenue
14-HUDCO Vishala Building
B Wing, 6th Floor
Bhikaji Cama Place
New Delhi - 110 066

2.The Commissioner of GST and Central Excise (Appeals) Coimbatore
Circuit Office at Trichy
No.1 Williams Road
Cantonment
Trichy - 620 001.

3.The Joint Commissioner of Customs
Office of the Commissioner of Customs (Preventive)

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No.1, Williams Road
Cantonment
Trichy - 620 001.

4.The Additional Commissioner of Customs
Office of the Commissioner of Customs (Preventive)
No.1, Williams Road
Cantonment
Trichy - 620 001.

5.The Deputy Commissioner of Customs
Customs Division
B Wing, III Floor
No.1, Williams Road
Cantonment
Trichy - 620 001. Respondent(s)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records in respect of impugned Order No.121/26 Cus dated 14-07-2026 passed by the First Respondent regarding rejection of the Revision Application F.No. 373/103/B/SZ/2025-R.A. filed by the Petitioner as not maintainable and Quash the same and be pleased to direct the First Respondent to restore Revision Application for disposal on merits.

For petitioner : Mr. S.Renganathan

For R1 : Mr.C.Nanda Gopal
Central Government Senior Panel Counsel

For R2 to R5 : Mr.R.Gowrishankar
Senior Standing Counsel

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ORDER

Mr. C. Nanda Gopal, learned Central Government Senior Panel Counsel, takes notice for the first respondent. Mr.R.Gowrishankar, learned Senior Standing Counsel takes notice for the respondents 2 to 5.

2. This Writ Petition is taken up for final hearing at the time of admission with the consent of the learned counsel for the petitioner, learned Central Government Senior Panel Counsel for the first respondent and the learned Senior Standing Counsel for the respondents 2 to 5.

3. The petitioner is before this Court against impugned Rejection Order dated 14.07.2026 bearing reference in No.121/2026 Cus of the first respondent, whereby Revision Application in F.No.373/103/B/SZ/2025-R.A. filed by the petitioner has been rejected.

4. Operative portion of the impugned order holding that no revision lies under Section 129DD of the Customs Act, 1962, reads as under:

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"7.4 Examined on this touchstone, the Government observes that the Applicant has not assailed the confiscation of the gold chains. The reliefs claimed in the instant Revision Application are confined to: (i) the confiscation of the Applicant's conveyance - Maruti Suzuki Wagon R bearing Registration No. TN 63 AT 1076- ordered under Section 115(2) of the Act, and the redemption fine of Rs. 1,00,000/- relatable thereto; (ii) the absolute confiscation of the Indian currency of Rs. 5,35,000/- ordered under Section 121 of the Act; (iii) the penalty of Rs. 1,50,000/-confirmed upon the Applicant under Section 112(b) of the Act; and (iv) the handling and warehousing charges of Rs. 6,160/- recovered towards release of the mobile phones.

7.5 None of the aforesaid reliefs relates to "any goods imported or exported as baggage" within the meaning of clause (a) of the first proviso to Section 129A(1) of the Act. The Applicant was admittedly not a passenger; he did not import or export any goods as baggage; and he never crossed the Customs barrier. The vehicle in question is an indigenous, domestically registered conveyance, which was seized from the parking area of the airport, outside the Customs area, and its confiscation has been ordered under Section 115(2) of the Act on the finding that it was to be used as a carriage of the smuggled gold. The currency in question is Indian legal tender, recovered from the glove box of the said vehicle, and its confiscation has been ordered under Section 121 of the Act on the finding that the amount was meant for paying the persons involved in the smuggling. Confiscation of a conveyance under Section 115(2) and confiscation of monies under Section 121 are independent measures provided under Chapter XIV of the Act, directed against the instrumentalities and the financing of smuggling; such orders do not determine the classification, dutiability, declaration, confiscation or redemption of any baggage of any passenger. The expression "relates to any goods imported or exported as baggage" occurring in the first proviso takes its colour from disputes arising out of the clearance of baggage under Chapter XI of the Act read with the Baggage Rules, 2016; it cannot

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be stretched to encompass the confiscation of a domestically registered motor vehicle, or of Indian currency seized outside the Customs area from a person who undertook no travel and carried no baggage.

7.6 In view of the foregoing, the Government holds that the impugned Order-in-Appeal, in so far as it is assailed by the Applicant in the instant Revision Application, is not an order "of the nature referred to in the first proviso to sub-section (1) of Section 129A" of the Act. Consequently, the instant Revision Application does not lie before the Central Government under Section 129DD of the Act and is not maintainable".

5. The short point that arises for consideration in the facts of this case is as to whether against the order of the Lower Authority as affirmed/modified by the Appellate Authority under Section 128 of the Customs Act, 1962, whether an appeal under Section 129A of the Customs Act, 1962 has to be filed before the Customs and Excise Service Tax Appellate Tribunal (CESTAT) or a revision has to be filed under Section 129DD of the Customs Act, 1962, where the issue involves imposition of penalty under Section 112(b) of Customs Act, 1962 and redemption of fine under Section 115(2) of the Customs Act, 1962 ordering redemption and penalty.

6. Operative portion of the Order-in-Original No.107/2024 dated

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13.09.2024 passed by the Joint Commissioner reads as under:

ORDER

31. Based on the foregoing findings, I pass the following order:-

(i) I order absolute confiscation of the 02 Nos. of unfinished gold chains of 24 Karat purity, weighing 999.000 grams valued at Rs.59,64,030/- (Rupees Fifty Nine Lakhs Sixty Four Thousand and Thirty only) seized from Shri P. Kumar, Motor Driver of Customs, Trichy Airport under Sections 111 (d), 111(i), 111(l) and 111(m) of the Customs Act. 1962: and

(ii) ***I order absolute confiscation of the seized Indian Currency Rs.5,35,000/- (Five Lakhs Thirty Five Thousand only) seized from the conveyance (Maruti Suzuki Wagon R) bearing registration No. TN 63 AT 1076 of Shri Michael Kennadi, as the said amount is meant for paying persons involved in the smuggling, under Section 121 of the Customs Act, 1962;*** *and*

(iii) ***I order confiscation of conveyance - Maruti Suzuki Wagon R, bearing registration No. TN 63 AT 1076 owned by Shri Michael Kennadi which was to be used as a carriage of the said smuggled gold under Section 115 (2) of the Customs Act, 1962. However, I give an option to redeem the conveyance on payment of fine of Rs.1,00,000/- (Rupees One lakh only) under the provision of Section 115 (2) of the Customs Act, 1962 within 120 days from the date of issue of this order;*** *and*

(iv) ***I order the mobile phone Oppo model (IMEI No. 865543052792630 & 865543052792622) and Samsung***

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model (IMEI No. 358674087818258/02 & 358674087818255/02) of Shri Michael Kennadi, the mobile phone VIVO model (IMEI No. 864373058421617/55 & 864373058421609/55) *of Shri Natarajan and the mobile phone Oppo model (IMEI No. 862661056249291 & 862661056249283) of Shri P. Kumar seized under Mahazar dated 15.09.2023 ate hereby released to the concerned person without any fine or penalty: and*

(v) I impose a penalty of Rs.5,96,000/- (Rupees Five lakh Ninety Six thousand only) on Shri Natarajan under Sections 112(b) of the Customs Act, 1962; and

(vi) impose a penalty of Rs.5,96,000/- (Rupees Five lakh Ninety Six thousand only) on Shri P. Kumar under Sections 112(b) of the Customs Act, 1962; and

(vii) ***I impose a penalty of Rs.5,96,000/- (Rupees Five lakh Ninety Six thousand only) on Shri Michael Kennadi under Sections 112(b) of the Customs Act, 1962.***

32. I issue this order without prejudice to any other action that may be taken against them under the Customs Act. 1962 and/or any other law for the time being in force in the Republic of india.

7. The aforssaid order was modified by the Appellate Commissioner *vide* order in Appeal No.13, 14 and 15/2025-TRY(CUS)-APP dated 19.02.2025, whereby insofar as the petitioner is concerned, the following order was passed:

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> *14. The penalty imposed on Shri The penalty imposed on Shri P.Kumar is reduced to Rs.1,20,000/- (Rupees One Lakh Twenty Thousand Only). P.Natarajan is reduced to Rs. 2.00.000/- (Rupees Two Lakhs Only).* ***The penalty imposed on Shri Michael Kennadi is reduced to Rs.1,50,000/- (Rupees One Lakh Fifty Thousand Only).*** *The rest of the Order-in-Original No. 107/2024 dated 13.09.2024 passed by the Joint Commissioner of Customs (Preventive), Hqrs., Trichy is upheld.* ***The appeal*** *(i) A.No.C24/61/2024-TRY(CUS)-APP) filed by Shri P.Kumar,* ***(ii) A.No.C24/77/2024-TRY (CUS)-APP filed by Shri Michael Kennadi*** *and (iii) A.No.C24/78/2024-TRY(CUS)-APP filed by Shri P.Natarajan* ***are disposed accordingly.***

8. Aggrieved by the same, the petitioner had filed a Revision Petition under Section 129DD of the Customs Act, 1962 before the first respondent/Revision Authority. The prayer of the petitioner before the first respondent/Revision Authority reads as under:

> *It is therefore prayed that the Hon'ble Authority may graciously be pleased to pass orders*
>
> *i) be pleased* ***to set aside the impugned Order-in-Appeal No.14/2025-TRY(CUS) APP dated 19-02-2025 in A.No.C24/77/2024-TRY(CUS) APP*** *passed by the learned Commissioner of GST & Central Excise (Appeals) Coimbatore, Circuit Office at Trichy in so far as relating to*
>
> *(i)* ***order of confiscation of the vehicle Maruti Suzuki Wagon R bearing Registration No.TN63 AT 1076 of the Applicant and order of the redemption fine of Rs.1,00,000/- (Rupees One Lakh only) under Section 125 of the Customs Act,***

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1962,

ii) ***be pleased to hold that the seizure of vehicle and Indian currency are not valid in terms of Section 110 of the Customs Act, 1962,***

iii) be pleased to set aside the order of confiscation of Indian currency of Rs.5,35,000/- (Rupees Five lakhs thirty five thousand only) and be pleased to order release of Indian currency of Rs.5,35,000/- (Rupees Five lakhs thirty five thousand only) with interest from the date of seizure (ie.) on 13-09-2023 to till date of release,

iv) be pleased to set aside the order of penalty amount of Rs.1,50,000/-(Rupees One lakh fifty thousand only) under Section 112(b) of the Customs Act, 1962, on the Applicant,

v) be pleased to set aside the recovery of handling charges and warehousing charges of Rs.6,160/- (Rupees Six thousand one hundred and sixty only) paid on 08-03-2025 towards free release of mobile phones with consequential reliefs,

vi) be pleased to hold that Sections 110, 115, 121 and 125 of the Customs Act, 1962, are not applicable and the vehicle Maruti Suzuki Wagon R bearing Registration No.TN63 AT 1076 was not used as conveyance under Section 115(2) of the Customs Act, 1962, and in this case, Indian currency of Rs. 5,35,000/- (Rupees Five lakhs thirty five thousand only) is not sale proceeds under Section 121 of the Customs Act, 1962 and the Applicant is entitled for consequential reliefs,

vii) crave leave to file additional grounds, if any at the time of hearing and

viii) to pass any other order or such other order as may

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deem fit and proper in the circumstances of the case and thus render justice.

9. Thus, the issue arises for consideration is whether the first respondent as Revision Authority was justified in dismissing the Revision Application holding that the Revision was not maintainable under Section 129 DD of the Customs Act, 1962.

10. Earlier, the petitioner had earlier approached this Court in W.P.(MD) No.14402 of 2024 for the following relief:

> *"To call for the records pertaining to the impugned order in File No.GEN/ADJ/ADC/417/2024-ADJN DIN-20240381OI000000 ACC3 dated 05.03.2024 passed by the 2nd respondent and quash the same as illegal and consequently direct the respondents to release the petitioner's vehicle Wagon R VXI BS IV bearing No.TN-63 AT-1076."*

11. Following orders were passed on 03.07.2024 in W.P.(MD) No.14402 of 2024:

> *6. I have considered the arguments advanced by the learned counsel for the petitioner and Senior Standing Counsel for the*

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respondents.

7. In my view, the presence of the car, that has been seized from the petitioner will serve no purpose for investigation, as the details are available with the Customs Department. Since no useful purpose will be served by keeping the vehicle idle without it being run. Its value will depreciate as the days go by. Therefore, to balance interest of the parties, the Court is inclined to come to the rescue of the petitioner by ordering provisional release of the subject car subject to the petitioner depositing a sum of Rs. 1,00,000/- with the second respondent, as a security, for the proposed proceedings to be initiated against the petitioner for confiscation under the provisions of the Customs Act, 1962 and Prevention of Money Laundering Act, 2002.

8. The petitioner shall not transfer or alienate the subject car without permission of the Customs Department and the authorities under the provisions of the Prevention of Money Laundering Act, 2002. The petitioner shall produce the car for inspection once in six months pending further orders in the proceedings to be initiated against the petitioner and for confiscation of the car and the cash under the provisions of the Prevention of Money Laundering Act, 2002. Subject to such compliance, the car shall be released provisionally forthwith.

This Writ Petition is disposed of, with above directions. No costs."

12. Thereafter, the petitioner has filed W.P.(MD) No.19335 of 2025 for the following relief:

" To call for the records in respect of impugned order GEN/DISP/OTH/4/2025 dated 27.02.2025 passed by the 1st respondent regarding rejection of release of the vehicle Maruti Suzuki Wagon R bearing Registration No.TN 63 AT 1076 and quash the same and be pleased to direct the 1st respondent to release the vehicle Maruti Suzuki Wagon R bearing Registration

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No.TN 63 AT 1076 to the petitioner unconditionally."

13. This Court *vide* order dated 17.07.2025, has passed the following interim order:

> *"3. In response to the above order, the petitioner has not paid the redemption fine within a period of 120 days as per Section 125(3) of Customs Act, 1962. However, the petitioner has paid the redemption fine of Rs.1,00,000/- after expiry of limitation under Section 125(3) of the Customs Act.*
>
> *4. The fact remains that the amount was paid through TR6 challan. However, TR6 challan was refused to be acknowledged and it has been returned. The amount has been paid. This is evident from Bank seal of IOB bank on TR6 challan. Hence, there shall be positive direction to the respondent provisionally release the car of the petitioner immediately. The petitioner shall not transfer the vehicle without permission of this Court.*
>
> *5. List the matter on 18.08.2025 for filing counter and for final disposal."*

14. Since the said order has been complied with, the said Writ Petition has been closed *vide* order dated 18.08.2025.

15. As per Section 129A of the Customs Act, 1962, an Appeal against the order of the Appellate Authority passed under Section 128 of the Customs Act, 1962, lies before the Customs and Excise Service Tax Appellate Tribunal

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(CESTAT). Section 129A of the Customs Act, 1962, reads as under:

"129A. Appeals to the Appellate Tribunal.

(1)Any person aggrieved by any of the following orders may appeal to the Appellate Tribunal against such order-

(a)a decision or order passed by the [Commissioner of Customs] [[Substituted by Act 22 of 1995, Section 50, for " Collector of Customs" and " Collector(Appeals)" , respectively (w.e.f. 26-5-1995).]] as an adjudicating authority;

(b)an order passed by the [Commissioner (Appeals)] [[Substituted by Act 22 of 1995, Section 50, for " Collector of Customs" and " Collector(Appeals)" , respectively (w.e.f. 26-5-1995).]] under section 128-A;

(c)an order passed by the Board or the Appellate [Commissioner of Customs] [Substituted by Act 22 of 1995, Section 50, for " Collector of Customs" and " Collector (Appeals)" , respectively (w.e.f. 26-5-1995).] under section 128, as it stood immediately before the appointed day;

(d)an order passed by the Board or the Commissioner of Customs, either before or after the appointed day, under section 130, as it stood immediately before that day:

[Provided that no appeal shall lie to the Appellate Tribunal and the Appellate Tribunal shall not have jurisdiction to decide any appeal in respect of any order referred to in clause (b) if such order relates to,-

(a)any goods imported or exported as baggage;

(b)any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India, or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination;

(c)payment of drawback as provided in Chapter X, and the rules made thereunder:]

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[Provided further that the Appellate Tribunal may, in its discretion, refuse to admit an appeal in respect of an order referred to in clause (b) or clause (c) or clause (d) where-

(i)the value of the goods confiscated without option having been given to the owner of the goods to pay a fine in lieu of confiscation under section 125; or

(ii)in any disputed case, other than a case where the determination of any question having a relation to the rate of duty of customs or to the value of goods for purposes of assessment is in issue or is one of the points in issue, the difference in duty involved or the duty involved; or

(iii)the amount of fine or penalty determined by such order, does not exceed fifty thousand rupees.]

[(1-A) Every appeal against any order of the nature referred to in the first proviso to sub-section (1), which is pending immediately before the commencement of section 40 of the Finance Act, 1984, before the Appellate Tribunal and any matter arising out of or connected with such appeal and which is so pending shall stand transferred on such commencement to the Central Government and the Central Government shall deal with such appeal or matter under section 129-DD as if such appeal or matter were an application or a matter arising out of an application made to it under that section.] [Inserted by Act 21 of 1984, Section 40 (w.e.f. 11-5-1984).]

[(1-B) (i) The Board may, by notification in the Official Gazette, constitute such Committees as may be necessary for the purposes of this Act.

(ii)Every Committee constituted under clause (i) shall consist of two Chief Commissioners of Customs or two Commissioners of Customs, as the case may be.]

(2)[The Committee of Commissioners of Customs may, if it is] [Substituted by Act 18 of 2005, Section 70, for " The Commissioner of Customs may, if he is" (w.e.f. 13-5-2005).] of opinion that an order passed by the Appellate [Commissioner of Customs] [Substituted by Act 22 of 1995, Section 50, for " Collector of Customs" and " Collector (Appeals)" , respectively

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(w.e.f. 26-5-1995).] under section 128, as it stood immediately before the appointed day, or by the [Commissioner of Customs] [Substituted by Act 22 of 1995, Section 50, for " Collector of Customs" and " Collector (Appeals)" , respectively (w.e.f. 26-5-1995).] under section 128-A, is not legal or proper, direct the proper officer to appeal [on its behalf] [Substituted by Act 18 of 2005, Section 70, for " on his behalf" (w.e.f. 13-5-2005).] to the Appellate Tribunal against such order:

[Provided that where the Committee of Commissioners of Customs differs in its opinion regarding the appeal against the order of the Commissioner (Appeals), it shall state the point or points on which it differs and make a reference to the jurisdictional Chief Commissioner of Customs who shall, after considering the facts of the order, if is of the opinion that the order passed by the Commissioner (Appeals) is not legal or proper, direct the proper officer to appeal to the Appellate Tribunal against such order.

***Explanation.**-For the purposes of this sub-section, "jurisdictional Chief Commissioner" means the Chief Commissioner of Customs having jurisdiction over the adjudicating authority in the matter.] [Inserted by Act 18 of 2008, Section 71.]*

(3)Every appeal under this section shall be filed within three months from the date on which the order sought to be appealed against is communicated to the [Commissioner of Customs] [Substituted by Act 22 of 1995, Section 50, for " Collector or Customs " and " Collector (Appeals)" , respectively (w.e.f. 26.5.1995).], or as the case may be, the other party preferring the appeal.

(4)On receipt of notice that an appeal has been preferred under this section, the party against whom the appeal has been preferred may, notwithstanding that he may not have appealed against such order or any part thereof, file, within forty-five days of the receipt of the notice, a memorandum of cross-objections verified in such manner as may be specified by rules made in this behalf against any part of the order appealed against and such

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memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (3).

(5)The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (3) or sub-section (4), if it is satisfied that there was sufficient cause for not presenting it within that period.[Inserted by Act 18 of 2005, Section 70 (w.e.f. 13-5-2005).]

(6)An appeal to the Appellate Tribunal shall be in such form and shall be verified in such manner as may be specified by rules made in this behalf and shall, irrespective of the date of demand of duty and interest or of levy of penalty in relation to which the appeal is made, be accompanied by a fee of,-

(a)where the amount of duty and interest demanded and penalty levied by any officer of customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;

(b)where the amount of duty and interest demanded and penalty levied by any officer of customs in the case to which the appeal relates is more than five lakh rupees, but not exceeding fifty lakh rupees, five thousand rupees;

(c)where the amount of duty and interest demanded and penalty levied by any officer of customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees:Provided that no such fee shall be payable in the case of an appeal referred to in sub-section (2) or a memorandum of cross-objections referred to in sub-section (4).

(7)Every application made before the Appellate Tribunal-

(a)in an appeal for grant of stay or for rectification of mistake or for any other purpose; or

(b)for restoration of an appeal or an application, shall be accompanied by a fee of five hundred rupees:

Provided that no such fee shall be payable in the case of an application filed by or on behalf of the Commissioner of Customs under this sub-section.

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16. As per the first proviso to Section 129A of the Customs Act, 1962, no appeal lie to the Appellate Tribunal and the Appellate Tribunal shall not have jurisdiction to decide any appeal in respect of any order referred to in clause (b) if such order relates to, any goods imported or exported as baggage, any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India, or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination and payment of drawback as provided in Chapter X, and the rules made thereunder.

17. Reading of the first *proviso* to Section 129A of the Customs Act 1962, thus makes it clear that the Tribunal is not empowered to dispose the Appeal in respect of (a), (b), (c) of the first proviso to Section 129A.

18. The order of the Lower Authority and the First Appellate Authority, as also the Revision Authority under Section 129DD of the Customs Act, 1962, makes it clear that the goods that were seized were cash, mobile phone and car.

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They are neither exported nor imported. The car that was seized was allegedly meant for smuggling gold item had not been loaded on its seizure. Thus, there is no bar on the Tribunal to entertain the Appeal against the First Appellate Authority order under section 129A of the Customs Act, 1962. Therefore, by implication, the jurisdiction of the first respondent under Section 129DD of the Customs Act, 1962, is barred.

19. Therefore, the impugned order passed by the first respondent/Revision Authority under Section 129DD of the Customs Act, 1962, does not merit any interference. This Writ Petition is therefore liable to be dismissed. However, liberty is given to the petitioner to approach the Appellate Tribunal under Section 129A of the Customs Act, 1962, within a period of thirty (30) days from the date of receipt of a copy of this order. In case such an appeal is filed before the Appellate Tribunal, the Appellate Tribunal shall dispose of the Appeal on merits and in accordance with law, after hearing the petitioner, without further reference to the limitation.

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20. This Writ Petition is dismissed, with the above liberty. No costs. Consequently, connected miscellaneous petition is closed.

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1.The Revision Authority
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2.The Commissioner of GST and Central Excise (Appeals) Coimbatore
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C.SARAVANAN, J.

apd

5.The Deputy Commissioner of Customs
Customs Division
B Wing, III Floor
No.1, Williams Road
Cantonment
Trichy - 620 001.

Pre-Delivery order made in
W.P.(MD) No. 22231 of 2026

01.10.2026

20/20