

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
New Delhi

PRINCIPAL BENCH – COURT NO. 2

Customs Appeal No. 55378 Of 2023

[Arising out of Order-in-Appeal No. CC(A)/CUSTOMS/D-1/AIR/44-46 dated 25.04.2023 passed by the Commissioner (Appeals) of Customs, New Delhi]

Jai Kishan Choudhary

G-16, IInd Floor, Lajpat Nagar
New Delhi-110024

: Appellant (s)

Vs

Commissioner of Customs, New Delhi

New Customs House, Near IGI
Airport, New Delhi-110037

: Respondent (s)

APPEARANCE:

Ms. Prabjyoti K. Chadha, Advocate for the Appellant

Shri Rohit Issar, Authorized Representative for the Respondent

CORAM :

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

FINAL ORDER No. 51024/2025

Date of Hearing:16.07.2025

Date of Decision:16.07.2025

ASHOK JINDAL

The appellant is in appeal against the impugned order wherein gold recovered from his position weighing 1215 gms has been absolutely confiscated and penalty on the appellant has been imposed.

2. The facts of the case are on the basis of specific intelligence that three passengers, one namely, the appellant will arrived arrived from Bangkok to Delhi via Flight No- 9W 065 dated 25.05.2018 and was further scheduled to depart from New Delhi to Dubai by Flight No. 9W 0548 dated 25.05.2018 and Mr. Kamal Manjeet Sahota, who was scheduled to depart from New Delhi to Hyderabad by Flight No. AI 126 dated 25.05.2018 and Mrs. Meena Ashok Gupta, who was also scheduled to depart from New Delhi to Hyderabad by Flight No. AI 126 dated 25.05.2018 were being followed by the Customs officers. All

three passengers were carrying hand baggage only. The appellant was followed from the bus gate of the IGI Airport to the departure area of IGI Airport through transit area whereas Mr. Kamal Manjeet Sahota and Mrs. Meena Ashok Gupta were followed from the entry gate of IGI departures to the departure gate. As per the intelligence, the appellant was carrying Gold which he had to hand over to other two persons and had to receive foreign currency in return from those persons. However, the appellant got some suspicion and did not complete the transaction and proceeded to board their respective flights. At this stage, all three passengers were intercepted and one representative from Air India and one from Jet Airways were called by the Custom officers in which Mr. Himanshu from Jet Airways and Mr. Aswant Ellath from Air India presented themselves. The said Airline representatives were requested to offload all three passengers and they were brought to the Customs Preventive Room situated at the Customs Arrival Area after completing the immigration procedures of the appellant. At this stage, two independent panchas were requested to witness the Customs proceedings. In the presence of panchas, the gold was recovered from the rectum of the appellant weighing 1215 gms. Thereafter, various statements were recorded and the show cause notice was issued to the appellant for absolute confiscation of smuggled gold and to impose penalty on the appellant. The matter was adjudicated, the gold in question was absolute confiscated and the penalty on the appellant was imposed. The said order was challenged before the learned Commissioner (Appeals), who affirmed the order of the adjudicating authority. Against the said order, the appellant is before me.

3. Learned Authorized Representative took the preliminary objection that it is a case of baggage, therefore, this Tribunal has no jurisdiction to entertain the appeal filed by the appellant.

4. On the other hand, learned counsel for the appellant opposes the contention of the learned AR. It is her contention that the appellant has not crossed the green channel without declaring the goods in question, in that circumstances, the provisions of Customs Act, 1962 are not applicable to the facts of the case.

5. Heard the parties and perused the case records.

6. It is a fact on record that the appellant has not crossed the green channel and even not gone for immigration and the appellant was a transit passenger who was coming from Bangkok and going to Dubai via New Delhi. In that circumstances, the appellant has not crossed the immigration. Therefore, the provision of Customs Act, 1962 are not applicable to the facts of the case. Hence, the objection raised by the learned Authorized Representative is turned down.

7. On merits, as the provisions of Customs Act, 1962 are not applicable to the facts of the case, therefore, gold in question is not liable for confiscation. Consequently, gold is required to be released to the appellant and no penalty is imposable on the appellant.

7. With these terms, the appeal is disposed of.

(Order dictated and pronounced in the open Court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

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