



2026:DHC:2091-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 12th March, 2026

+ **W.P.(C) 15864/2022**

SH. GAUTAM JAIN
HOUSE NO.27^a, TAGORE NAGAR,
CIVIL LINES, LUDHIANA,
PUNJAB.

.....PETITIONER

Through: Mr. D S Chadha & Ms. Prabjyoti
K Chadha, Advocates.

versus

1. UNION OF INDIA

MINISTRY OF FINANCE
PARLIAMENT STREET,
NORTH BLOCK,
CENTRAL SECRETARIAT,
NEW DELHI-110001.

.....RESPONDENT NO.1

2. ADDITIONAL SECRETARY

TO THE GOVERNMENT OF INDIA
(REVISION AUTHORITY)
6THFLOOR, HUDCO VISHALA BUILDING
14 BHIKAJI CAMA PLACE,
NEW DELHI-110066.

..... RESPONDENT NO.2

3. COMMISSIONER OF CUSTOMS

TERMINAL-3
INDRA GANDHI INTERNATIONAL AIRPORT
NEW DELHI-110037.

.... RESPONDENT NO.3



Through: Mr. Vedansh Aanand, Senior Panel Counsel with Mr. Kush Garg, Advocate for Union of India.
Mr. Harpreet Singh, Senior Standing Counsel with Mr. Iqbal Singh Bedi, Ms. Suhani Mathur & Mr. Jatin Kumar Gaur, Advocates for Customs.

CORAM:

HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE
HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)

NITIN WASUDEO SAMBRE, J.

1. Heard the respective counsels at length.
2. The petitioner has questioned the order dated 30th March, 2022 passed by the Government of India in exercise of revisional jurisdiction confirming the order dated 13th February, 2019 and 5th August, 2020.
3. *Vide* the order impugned dated 13th February, 2019, the respondents have passed the following order against the petitioner, which reads thus:

"30. In view of the foregoing, I pass the following order:
(i) I deny the free allowance of Sh. Salil Puri on accounts of various omission and commission done by him as discussed supra.
(ii) I order confiscation of seized gold total weighing 999 gms valued at Rs. 26,12,855/- (Rupees Twenty six lakh twelve thousand eight hundred fifty five Only), seized from possession of Noticee 1 i.e. Sh. Salil Puri under Section 111 (d), 111(i), 111(j), 111(l), 111(m) and 111(o) of the Customs Act, 1962.
(iii) I allow the re-export of the above said impugned goods on payment of Redemption Fine of Rs. 5,30,000/-



(Rupees Five lakh thirty thousand only) under Section 125 of the Customs Act, 1962 along with the payment of penalty and charges as applicable. The redemption to be allowed after the completion of legal formalities in this regard and also fulfillment of any regulatory clearances/ approvals required. The offer of redemption if accepted shall be subject to condition that the Noticee shall not dispute the identity and valuation of the goods. The offer of re-export shall cease after three months of the receipt of this order.

*(iv) I also impose a penalty of **Rs. 5,30,000/- (Rupees Five lakh thirty thousand only)** on the Noticee 1 i.e. **Sh. Salil Puri** upon the Noticee under Section 112 and 114AA of the Customs Act, 1962.*

*(v) I demand for duty on gold weighing **2920 gms** (200 gms + 500 gms) valued at **Rs.81,76,000/- (Rupees Eighty one lakh seventy six thousand only)**, under Section 28 of Customs Act, 1962.*

*(vi) I order for charging and recovery of interest at applicable rates on the delayed payment of duty on gold weighing 2920 gms valued at **Rs.81,76,000/- (Rupees Eighty one lakh seventy six thousand only)** under Section 28AA of the Customs Act, 1962, which have already been cleared illegally.*

*(vii) I also impose a penalty of **Rs. 16,00,000/-(Rupees Sixteen lakh only)** on the Noticee 2 i.e. **Sh. Gautam Jain** under Section 112(a) & 112(b), 114, 114A, 114AA and 117 of the Customs Act, 1962 read with **Section 13** of Foreign Exchange Management (Export & Import of Currency) Regulations, 1999.*

*(vii) I also impose a penalty of **Rs. 5,00,000/- (Rupees Five lakh only)** on the Noticee 3 i.e. **Sh. Raman Kumar** under Section 112(a) & 112(b), 114, 114A; 114AA and 117 of the Customs Act, 1962 read with **Section 13** of Foreign Exchange Management (Export & Import of Currency) Regulations, 1999.”*

4. The Order in Original dated 13th February, 2019 was confirmed by the Commissioner (Appeals) vide impugned order dated 05th August, 2020 and also by the Government in revisional jurisdiction.



5. The facts which are necessary for deciding the present petition are as under:

- i. The petitioner claims to be a jeweller and running a jewellery shop in the name and style as M/s Jain Jewellers operating from Rani Jhansi Road, Ludhiana.
- ii. The passenger, Salil Puri, who was a resident of Ludhiana holding an Indian passport was crossing the Green Channel along with his wife Mrs. Pratibha Puri on 24th December, 2017.
- iii. Upon the baggage being scanned, from the said passenger, the gold to the extent of 1 kg, *i.e.*, chain shape weighing 668 grams and one bar form weighing 331 grams came to be recovered and a detention receipt came to be issued.
- iv. The said passenger, thereafter, was subjected to inquiry and in the statement recorded under Section 108 of the Customs Act, 1962 (hereinafter referred to as "*Customs Act*"), wherein it was disclosed that he was acting as a carrier for the petitioner.
- v. The same has resulted into issuance of a show cause notice to the petitioner on 18th June, 2018. It is upon the cause shown by the petitioner, the Order in Original came to be passed, operative part of which is reproduced hereinabove.
- vi. The said Order in Original came to be confirmed by the Commissioner (Appeals), so also by the revisional authority.



6. Amongst other, the contention raised by the counsel for the petitioner, while questioning the legality and sustainability of the orders impugned, are that the material to connect the petitioner for the purpose of passing the impugned order cannot be said to be sufficient enough.

7. Drawing support from the provisions of Section 112(a) and (b) of the Customs Act, he would urge that the said provisions are not applicable to the facts of case in hand. Apart from above, his contentions are that the penalty is imposed at an exorbitant rate. So as to substantiate the aforesaid contentions, the learned counsel has drawn support from the very decision of the respondent, in the matter of not only permitting redemption in favour of the passenger, wherein he was permitted to re-export the gold which was smuggled by him, but also the meagre penalty imposed for the very same act.

8. The learned counsel, in such an eventuality, has urged that the order passed by the respondent to the extent of imposing penalty is also not sustainable.

9. The counsel for the respondent has opposed the aforesaid contentions and submits that the order impugned is just and proper as the penalty imposed is in tune with the statutory provisions. There is enough material available on record which was tested and considered in the light of statutory mandate provided under Section 108 of the Customs Act. That being so, the dismissal of this petition is sought.

10. Having appreciated the aforesaid submissions, it is apparent that the passenger's statement was recorded under Section 108 of the Customs Act and there was consistency in all three statements of the said passenger, that he has smuggled the gold in question at the behest of the present petitioner.



11. During the investigation with the noticee no.1, it was discovered that on 5th October, 2017, 23rd November, 2017 and 14th December, 2017, said passenger has carried 1,000, 1,000 and 920 gms of Gold respectively worth Rs.81,76,000/-. The Show Cause Notice contains the quantity of smuggled goods as 3919 gms, which includes the gold that was seized in his recent visit. The valuation of the total gold reflected in the Show Cause Notice was Rs.1,07,88,855/- only.

12. The statement recorded under Section 108 of the Customs Act on 24th December, 2017, 25th December, 2017 and 11th April, 2018, were found to be consistent. In the said statements, it is specifically stated that upon directions of Mr. Raman Kumar, a money exchanger, the currency was delivered to the petitioner and the said currency used to be handed over to the noticee no.1 in Dubai by representative of the present petitioner.

13. Apart from above, other noticee *viz.* Mr. Raman Kumar in his statement under Section 108 of the Customs Act has also implicated the present petitioner. In his statement, he has specifically stated that the noticee no.1, Mr. Salil Puri, offered deal to exchange Indian Rupee to US Dollars and the US Dollars were directed to be delivered to the petitioner by the noticee no.1, Mr. Salil Puri, and to receive the payment in Indian currency from the present petitioner at the same time. The said exchange and payments at the behest of the petitioner were carried out four times. In the statement of the petitioner recorded under Section 108 of the Customs Act, it is specifically stated by him that he knows the noticee no.1 for last seven years.

14. The forensic analysis of the mobile phone of Mr. Salil Puri, detained *vide* Panchnama dated 24th December, 2017, establishes that



Mr. Salil Puri was in touch with the petitioner for purchasing and bringing gold into India, including for the purchase and receipt of dollars from Mr. Raman Kumar. The aforesaid facts establish a relationship between the petitioner and noticee No. 1, so also with the money exchanger, Mr. Raman Kumar.

15. Before the Show Cause Notice was issued, summons were issued to the petitioner, however, petitioner appears to have not cooperated.

16. Apart from above, it appears that *vide* order in original, free allowance to Mr. Salil Puri was denied and an order of confiscation under Section 124 of the Customs Act came to be passed. Post redemption fine of Rs.5,30,000/-, re-export of the smuggled good with penalty was permitted. In addition to above, penalty was also imposed under Section 112A, 114 AA of the Customs Act on Mr. Salil Puri with the demand of duty on 2920 gms of gold at Rs.81,76,000/- and also the recovery of interest under Section 28AA of the Customs Act.

17. The petitioner was saddled penalty of Rs.16 lakhs under Section 112(a) & 112(b), 114, 114A, 114AA and 117 of Customs Act, 1962 read with Section 13 of Foreign Exchange Management (Export & Import of Currency) Regulations, 1999.

18. The entire material on record demonstrates that the petitioner in relation to the goods in question was found to be involved in the act which renders the goods liable for confiscation under Section 111.

19. Apart from the above, the intention of the petitioner was to purchase the goods and/or deal with them in any other manner, knowing that they were liable for confiscation.

20. The petitioner has attempted to export the goods improperly which has rightly prompted not only the levy of penalty under Section



114A, but also under Section 114AA of the Customs Act, 1962.

21. In the aforesaid background, it can be noticed that not only the statement of the said passenger under Section 108 of the Customs Act incriminates the petitioner, but also there is other collateral material connecting the petitioner to the said act of gold smuggling.

22. It is settled position of law that statement recorded under Section 108 of the Customs Act can be considered for the purpose of proceedings against the parties like the present petitioner *qua* implicated in a statement recorded under Section 108 of the Customs Act. An authoritative support can be drawn from the judgment of Apex Court in the matter of ***Naresh J. Sukhawani Vs. Union of India***: 1995 Supp (4) SCC 663 and the relevant paragraph reads thus:

“4. It must be remembered that the statement made before the Customs officials is not a statement recorded under Section 161 of the Criminal Procedure Code, 1973. Therefore, it is a material piece of evidence collected by Customs officials under Section 108 of the Customs Act. That material incriminates the petitioner inculcating him in the contravention of the provisions of the Customs Act. The material can certainly be used to connect the petitioner in the contravention inasmuch as Mr. Dudani's statement clearly inculcates not only himself but also the petitioner. It can, therefore, be used as substantive evidence connecting the petitioner with the contravention by exporting foreign currency out of India. Therefore, we do not think that there is any illegality in the order of confiscation of foreign currency and imposition of penalty. There is no ground warranting reduction of fine.”

23. As such, it cannot be said that the order impugned is without any legal basis.



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24. Merely because the said passenger was permitted to redeem and re-export the gold, that by itself, will not give leverage to the petitioner to claim parity with the other accused. It is settled position of law that Article 14 of the Constitution cannot be invoked for seeking the relief in such an eventuality, claiming equal treatment to the person who have flouted the provision of law.

25. In that view of the matter, in our opinion, no case for causing interference in extraordinary jurisdiction is made out. The petition, as such, stands dismissed.

26. Copy of the Judgment be uploaded on the website of this Court.

**NITIN WASUDEO SAMBRE
(JUDGE)**

**AJAY DIGPAUL
(JUDGE)**

MARCH 12, 2026/ab/sk