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

% ***Date of Decision: 10.09.2026***

\# **CNR No. DLHC010148232025**

\+ W.P.(C) 3527/2025

PRIKSHITH JHAVER .....Petitioner

Through: Mr. Upender Thakur, Ms. Shreya Kardam and Ms. Karishma Singh, Advs.

versus

COMMISSIONER OF CUSTOMS TERMINAL 3 & ORS. .....Respondents

Through: Ms. Anushree Narain, SCC along with Mr. Apurv Yadav and Mr. Naman Choula, Advs.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE VIMAL KUMAR YADAV

J U D G M E N T (ORAL)

ANIL KSHETARPAL, J.:

1. Through the present Petition, the Petitioner prays for issuance of a Writ in the nature of *Certiorari* to quash the communication/order dated 08.08.2024. The Petitioner also seeks issuance of a Writ in the nature of *Mandamus* directing the Respondents to quantify the applicable duty so as to enable the Petitioner to deposit the same.

2. At the relevant time, the Petitioner was travelling from Delhi to Chennai. He was intercepted at the Indira Gandhi International Airport, New Delhi, with twelve (12) gold bars weighing 1200 grams, which were detained by Respondents.

3. Ultimately, on 18.11.2022, an Order-in-Original was passed by the Joint Commissioner of Customs, Terminal-3, Indira Gandhi International Airport, New Delhi, ordering confiscation of the

aforesaid gold bars, while granting liberty to the Petitioner to redeem the confiscated gold bars upon payment of the applicable duty, and Rs.50,000/- each towards redemption fine and penalty.

4. Pursuant to the aforesaid Order-in-Original dated 18.11.2022, the Petitioner submitted an application dated 28.12.2022 seeking quantification of the applicable duty. However, the Department preferred an appeal against the said order, which came to be dismissed on 03.08.2023. The order dated 03.08.2023 thereafter attained finality.

5. Subsequently, the Petitioner, on the assumption that the confiscated gold bars had been disposed of by the Respondents, submitted an application seeking refund, which was rejected on 30.04.2024 on the ground that the same was premature.

6. It is in these circumstances that the present Writ Petition came to be filed.

7. Learned counsel representing the Respondents does not dispute that the twelve (12) gold bars seized from the Petitioner are still available with the Respondents. She, however, relies upon the Paragraph Nos.20, 21, 24 and 30 of the judgment dated 23.04.2019 passed by a Three-Judge Bench of this Court in W.P.(C) 1735/2016, captioned ***Gillette India Ltd. v. Commissioner of Customs & Ors.***, which read as under:

> *"20. Under Section 125 of the Act, an option indeed is given to the importer to redeem the goods by payment of fine. A time limit is also set for that purpose. If, as in the present case, the importer fails to avail of that opportunity it leads inevitably to confirming the 'confiscation' of the goods and their sale by public auction. Section 126 (1) of the Act spells out the legal effect of such 'confiscation'. Section 126 (2) of the Act lends a further finality to such vesting. It*

requires the 'officer adjudging confiscation' to mandatorily "take and hold possession of the confiscated goods." Any connection that the owner/possessor.

21. The distinction sought to be drawn between confiscation of 'prohibited goods' and of 'other goods' is relevant only to the extent of the discretion in the adjudging officer to permit their redemption by payment of fine. Once there is a failure to pay the fine within the time stipulated, the consequence is the same whether the goods are 'prohibited goods' or 'other goods'. The transient nature of the confiscation ends and it becomes 'absolute'. This is what is made clear by Section 126 of the Act. Sections 125 and 126 of the Act form one continuous scheme and are not to be read disjunctively. Once the vesting of the goods in the government is absolute, it would be inconsistent with the character of that vesting to contend that the Central Government can only recover through the sale of such goods the duty, penalty and interest and should return the excess to the owner/possessor of the goods.

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24. It is trite that the rule of strict interpretation would apply to taxation statutes and there is no equity in tax. In Bharat Sanchar Nigam Limited v. ACIT Manu/ID/0462/2016, the Supreme Court explained the cardinal rules of interpretation as under:

> *"13.12. The cardinal Rule of Interpretation is that the statute must be construed according to its plain language. Neither should anything be added nor anything be subtracted therefrom unless there are adequate grounds to justify the inference that the Legislature clearly so intended. It is also well settled that in a taxing statute one has to look merely at what is clearly stated. The meaning and extent of the statute must be collected from the plain and unambiguous expression used therein rather than from any notions which may be considered to be just or expedient. To put in the words Rowlatt J. as held in Cape Brandy Syndicate v. Commissioners of Inland Revenue [(1 921) 1 KB 64, 71]. In a taxing Act one has to look merely at what is clearly said. There is no room for any intendment. There is no equity about a tax. There is no presumption as to a tax. Nothing is to be read in, nothing is to be implied. One can only look fairly at the language used."*
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> *13.14. It is well understood that the Court only interprets the law and cannot legislate. Even if a provision of law is presumed to be misused and subjected to the abuse of the process of law, it is for the legislature to amend, modify or repeal it, if deemed necessary as held in Padma Sundara Rao v. State of Tamil Nadu (2002) 255 ITR 147 at pages*

154 to 155 (SC); Prakash Nath Khanna v. CIT (2004) 266 ITR 1 at page 9 [SC]; Union of India v. Rajeev Kumar AIR (2003) SC 2917 at 2923. Courts cannot reframe the words used by the legislature as they have no powers to legislate. A matter which, for the sake of an argument, should have been provided for in a statute cannot be supplied by the Courts as to do so will be an act of legislation and not of interpretation. Reliance may be placed on Smt. Kanta Devi v. Union of India (2003) 4 SCC 753 & 757. 13.17. The settled principles of interpretation are that the Court must proceed on the assumption that the legislature did not make a mistake and that it did what it intended to do. The Court must, as far as possible, adopt a construction which will carry out the obvious intention of the Legislature. Undoubtedly, if there is a defect or an omission in the words used by the Legislature, the Court would not go to its aid to correct or make up the deficiency. The Court could not add words to statutes or read words into it which are not there, especially when the literal reading produces intelligible results. Reference may be made to Dadi Jaganath Dham v. Jammullu Ramulu AIR [2001] (SC) 2699 at 2703. Any presumption to the contrary in the absence of any ambiguity would be contrary to the settled legal position as the legislature as far as possible is presumed to know what it intends to stay."

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30. To summarise the conclusions:

(a) Once there is a failure to pay the redemption fine in lieu of confiscation as determined under Section 125 of the Act, within the time stipulated, the consequence of the 'confiscation' becoming absolute and the confiscated goods vesting absolutely in the central government inevitably has to follow in terms of Section 126 of the Act. The consequence is the same whether the goods are 'prohibited goods' or other goods'.

(b) Sections 125 and 126 of the Act form one continuous scheme and are not to be read disjunctively. Once the vesting of the goods in the government is absolute, it would be inconsistent with the character of that vesting to contend that the Central Government can only recover through the sale of such goods the duty, penalty and interest and should return the excess to the owner/possessor of the goods.

(c) Therefore, this Court is unable to concur with the DB which decided ***MMTC v. Surjit Singh Kanda*** *(supra) that on a collective reading of Sections 125 and 126 of the Act, the Customs Department is precluded from retaining the excess sale proceeds after adjustment of duty, penalty and interest."*

8. The substance of the aforesaid judgment is that once an option of redemption is granted under Section 125 of the Customs Act, 1962, the same is required to be exercised within the period stipulated by the adjudicating authority, failing which the confiscation becomes absolute in terms of Section 126 of the Act.

9. The Petitioner had 120 days from the date of the Order-in-Original, i.e., 18.11.2022, to seek redemption of the aforesaid gold bars. He submitted an application dated 28.12.2022 seeking quantification of the applicable duty so as to enable him to avail of the option of redemption, which is extracted as under:

By Speed Post

To

The Joint commissioner of Customs,

Preventive, Shift-B,

New Delhi 110037

28.12.2022

भारतीय डाक
India Post

[illegible]
SP ANNA ROAD H.O (600002)
Counter No:5,28/12/2022,17:21
To:THE JOINT COM,PREVENTIVE SHIFT
PIN:110037, Gurgaon Road SO
From:PARIKSHITH ,21 SANTHOME HIGH
Wt:20gms
Amt:41.30(Cash)Tax:6.30
<Track on www.indiapost.gov.in>

Madam,

REF: C.NO.VIII(AP)10/P&I/3259-B/DEPARTURE/2021/16359 DT. 18.11.2022 AND NO.231/ADJ/2022

With reference to the captioned subject, I would like to submit a few lines for your perusal.

As per the Order, I have been asked to pay Rs.5.00 lakhs as fine and Rs.5.00 lakhs as penalty. Further, the order also says to pay applicable duty on import as applicable on the day of detention of gold.

In this connection I request you to confirm the amount to be paid by me as duty, to enable me to redeem the confiscated gold.

Yours faithfully,

(Parikshith Jhaver)

S/o Late Sri Harikrishna Jhaver,

R/o 21, Santhome High Road,

Chennai 600004

10. The aforesaid application was admittedly received by the Respondents. However, the Respondents failed to respond. In the Order-in-Original dated 18.11.2022, though the amount of redemption fine and penalty was quantified, the applicable duty, however, was never quantified by the Respondents. The Petitioner never sought enlargement of the period for redemption, rather, he had approached the Respondents seeking quantification of the amount which was required to be deposited in order to exercise the option of redemption.

11. In these circumstances, the Petitioner has not committed any default in complying with aforesaid Order-in-Original and the failure is on the part of the Respondents. The Respondents never took trouble to communicate to the Petitioner that the applicable duty, on quantification, can be paid later on, but the Petitioner should pay the redemption fine along with penalty.

12. Having regard to the fact that the Petitioner had approached the Respondents within the prescribed period and that the applicable duty was not quantified despite his request, the failure to exercise the option of redemption within the stipulated period cannot, in the facts of the present case, be attributed solely to the Petitioner. The decision in ***Gillette India Ltd.*** *(supra)*, therefore, does not preclude the relief sought in the present Petition.

13. In view of the aforesaid circumstances, the present Writ Petition is disposed of with a direction to the Respondents to communicate to the Petitioner the applicable duty payable in respect of the confiscated gold bars within a period of fifteen (15) days from today. The moment the applicable duty is communicated to the Petitioner, he shall deposit the applicable duty, along with the redemption fine and penalty, together with interest at the rate of 8% in terms of the Order-in-

Original dated 18.11.2022. Upon receipt of the aforesaid amount, the Respondents shall release the twelve (12) gold bars to the Petitioner.

ANIL KSHETARPAL, J.

VIMAL KUMAR YADAV, J.

SEPTEMBER 10, 2026
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