CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

NEW DELHI

PRINCIPAL BENCH- COURT NO. I

Customs Appeal No. 50760 of 2025

(Arising out of Order-in-Original No. 35-37/2024-25/DR/Pr. Commr./ACC(Import) dated 31.01.2025 passed by the Commissioner of Customs, Air Cargo Complex (Import), New Delhi.)

M/s. Tasha Gold Pvt Ltd **....Appellant**
Plot No. N-19, Site-V, Kasna Industrial Area,
Greater Noida, Uttar Pradesh-201307

Versus

The Principal Commissioner of Customs, (Adjudication)- New Delhi **....Respondent**
Office of the Principal Commissioner of Customs,
Air Cargo Complex, New Custom House,
Near IGI Airport, New Delhi

WITH

C/50761/2025	**C/50828/2025**	**C/51031/2025**	**C/51032/2025**
C/51187/2025	**C/51188/2025**	**C/51189/2025**	**C/51190/2025**
C/50914/2025	**C/50915/2025**		

APPEARANCE:

Mr. Arjun Raghavendra M., Mr. Jayant Kumar, Mr. Soham Bandopadhyay, Mr. Manjunath A.N., Mr. S.P. R. Abhir Om, Mr. Stephin George, Advocates for the appellant
Mr. Ranjan Prakash and Mr. Rajesh Singh, Authorised Representatives for the Department

CORAM :
HON'BLE DR. RACHNA GUPTA, OFFICIATING PRESIDENT
HON'BLE MS. HEMAMBIKA R. PRIYA, MEMBER (TECHNICAL)

DATE OF HEARING: July 03, 2026
DATE OF DECISION: 15.09.2026

FINAL ORDER NO's. 51451-51461/2026

DR. RACHNA GUPTA

The present order disposes of eleven appeals arising out of the common Order-in-Original No. 35-37/2024-25 dated 31.03.2023 pursuant to the corrigendum dated 25.04.2025 to the said OIO. The said order has adjudicated three show cause notices as detailed below:

Sr. NO.	SCN No. and Date	BOE No. & Date (Live Consignment)	Goods Imported	Duty Confirmed
1.	34/2023-24 dated 13.12.2023	30625730 dated 06.12.2022	27 Gold Dore Bars (26 bars provisionally released pursuant to Tribunal's decision	207.47 kg of GDB of Rs. 98,44,43.760/-
2.	35/2023-24 dated 14.12.2023	102 past Bills of Entries from Rwanda for imports from Tanzania and Burundi	58 Gold Dore bars	Goods of value Rs. 1,84,79,736.26/-
3.	04/2024-25 dated 22.04.2024	59 Bills of Entry (1+58 already covered under remaining both the SCNs)	59 Gold Dore bars	Short paid custom duty of Rs. 101,86,28,255/-

2. It is observed that out of the aforementioned 11 appeals, 6 appeals i.e. bearing no. C/51032, 51031, 51187, 51188, 51189 & 51190, all of the year 2025 are with respect to challenging the personal penalty imposed on the Directors of the importing company, M/s Tasha Gold Pvt. Ltd[1], one of the appellant herein. The two appeals therein as bearing no's. C/50914 & 50915/2025 have challenged the order of imposition of personal penalty on the Customs Broker of the said importing company.

3. Remaining three appeals bearing no. C/50760/2025, C/50761/2025 and C/50828/2025 relate to confiscation of gold bars and imposition of duty and penalty on the importing company.

4. Briefly stated facts which culminated into the order under challenge are as follows:

5. M/s Tasha Gold Pvt Ltd is engaged in manufacturing of Gold Bars. The officers of Directorate of Revenue Intelligence, Noida Regional Unit got an intelligence about M/s TGPL to have been involved in the import of Gold Dore Bars[2] to manufacture gold bars under the import license from Directorate of General Foreign Trade, however by misusing the benefit of

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1 TGPL
2 GDBs

Notification No. 50/2017-Cus dated 30.06.2017 (as amended) and also misusing the Notification No. 96/2008-Cus dated 13.08.2008 (as amended). The goods imported by the appellants at different point of time for the different quantities of the precious metal bars/otherwise/GDBs had been examined by the officers of DRI at the relevant time. Search in terms of Section 105 of the Customs Act got carried out at the factory premises of M/s TGPL on 16.12.2022. The statement of the authorised representative of M/s TGPL, Shri Athar Abbas Naqvi was already got recorded on 15.12.2022 under Section 108 of the Customs Act. The statement of remaining other Director namely Shri Asif Abbas got recorded on 19.12.2022 and that of factory Manager namely Shri Saiyyad-Un-Ali of M/s TGPL got recorded on 16.12.2022 both under Section 108 of the Customs Act.

6. Three of them had acknowledged that M/s TGPL is in the business of importing GDBs since 2015, mainly from Rwanda. With effect from the year 2021, the appellant started getting it through M/s Equinox Mining which has been the trading arm of M/s Ngali Mining, the fully owned Government entity. M/s Ngali Mining was getting gold pieces in different shapes and sizes from the mines and it was then sending those pieces for re-melting into dore bars as per their requirement and then used to further sell the same to M/s Equinox Mining for export. M/s TGPL was getting those GDBs from M/s Equinox in US dollar. The consignments have also been acknowledged to be imported from Tanzania through various suppliers namely Sub Gold Ltd, Harmony Trading Ltd, Sakasia & Company Ltd, Kilosa Kwetu Trading Ltd, MMG Gold Ltd and Benzul Ltd, all situated in Tanzania, however, none of these suppliers were provided Assay Certificate and packing list issued by the mining companies or the miners.

7. In the light of those depositions and that the Notification No. 49/2015-20 dated 05.01.2020 of DGFT Directorate General of Foreign Trade amended the import policy on conditions for gold in any form, other than monetary gold and silver in any form under Chapter 71 of Indian Customs Tariff (HS) 2017, the department formed an opinion, the import of all items falling under CTH 71081200, except gold dore bars, is allowed only through nominated agencies as notified by RBI and DGFT and IFSCA. However, so far as import of gold dore bar is concerned, the same is only permitted from refineries that too only against an import license issued with actual user condition.

8. Department further observed that three licenses were issued to M/s TGPL by DGFT. However with the two conditions which implies that Notification No. 50/2017-Cus dated 30.06.2017 is binding for the import of gold dore bars in absence whereof the import can become prohibited. The said notification mandated for Assay Certificate issued by the mining company to have been enclosed with the import consignment. The goods were also to be mandatorily imported in accordance with the packing list issued by the mining company. None of these documents were annexed by the appellant at the time of seeking clearance of the imported GDBs. It was also found that GDBs didn’t meet the weight specifications as given under the said notification (Not. No. 12/2012 dated 17.03.2012 superseded by Not. No. 50/2017 dated 30.06.2017) and also that the GDBs were exceeding the maximum purity limit of 95%.

9. Department further observed that M/s TGPL has availed the benefit of country of origin on the basis of country of origin certificates issued by the designated authority. It was mentioned in the said COO Certificate that the same is issued on the basis of ‘control carried out’, that the declaration by the exporter is correct. However, the exporters could not

produce the packing list and the Assay Certificate issued by the mining company in respect of these consignments and thus the said certification was doubted by the department.

10. Based on above observations, Section 2(33) of the Customs Act, 1962, which defines the 'prohibited goods' was invoked and the aforesaid three show cause notices were served upon the appellants proposing the confiscation of the goods imported vide Bills of Entries to the respective show cause notices and the short paid customs duty for each of the show cause notice as mentioned in the table above was proposed to be recovered from the appellants alongwith the interest. Penalty under Section 112(a) and 112(b) of the Customs Act was proposed to be imposed on M/s TGPL. In addition to the penalties of Section 112 penalty under Section 114AA of the Customs Act were proposed to be imposed on the directors, Abbas Husein Bandali, Asif Abbas and Athar Abbas Naqvi was proposed. The penalty on M/s Committed Cargo Care Ltd, the Customs House Agent[3] of the appellant was also proposed to be imposed under the aforesaid both the provisions. The proposal of three of the show cause notices has been confirmed vide the impugned Order-in-Original dated 31.01.2025 with the corrigendum thereof. Being aggrieved of the said order that the appellant is before this Tribunal.

11. We have heard learned counsel for the appellant Mr. Arjun Raghavendra M. assisted by Mr. Jayant Kumar, Mr. Soham Bandopadhyay, Mr. Manjunath A.N., Mr. S.P.R. Abhir Om, Mr. Stephin George and Mr. Ranjan Prakash and Mr. Rajesh Singh, authorised representative of the department.

12. Learned counsel for the appellant has foremost submitted that the legal question involved in the present appeal about violation of the

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3 CHA

conditions of Notification No's. 90/2008 and that of 50/2017 has already been decided in favour of the appellant in the case of **Yash Oro India Pvt Ltd vs. Principal Commissioner of Customs, ECC Import, New Delhi reported as (2026) 43 CENTAX 104, Tribunal Delhi** wherein it has been held that the license condition does not bar the availment of benefit of Notification No. 96/2008. Hence the benefit cannot be denied when the DGFT license has not been cancelled. It is submitted that the Hon'ble Apex Court has held that the benefits under multiple notifications can be availed provided all the conditions under all the notifications are satisfied. Ld. Counsel further about respective allegation as below:

i) 1 gold dore bar was weighing below 5 kg, in violation of condition 40(a) of Notification 50/2017;

ii) Learned counsel submitted that 27 bars were imported by the appellant with respect to show cause notice dated 13.12.2023, 26 bars admittedly weighing above 5kgs. One bar being underweight has wrongly been held towards the entire consignment. The violation of the condition has wrongly been alleged;

iii) The purity of the imported gold dore bars after being tested through CRCL was found to be above 95% in violation of condition no. 40(c) of the aforesaid notification;

iv) It is submitted that as per CRCL own RTI reply dated 18.09.2023, a margin of error of 0.5% is acknowledged. The enhanced purity since covered under the said margin of error, violation has wrongly been alleged;

iii) The packing list from the mining company as required under condition 40(b) of the Notification No. 50/2017 was not provided;

v) It is submitted that the packing list of M/s Equinox suffice the condition, M/s Equinox being a Government undertaking. The violation of the said condition has wrongly been alleged. Decision in the case of **Rajesh Export Ltd reported as 2016 (335) ELT 3 Karnataka** affirmed by Hon'ble Supreme Court in the case cited as **2017 (349) ELT A90** has been relied upon. The same decision has been relied upon in support of the submission with respect to imports of GDBs from Tanzania. It is submitted that in Tanzania Gold is exported through mining commission, a statutory body under Section 21 (1) of the Mining Act. Since a small scale miner's document cannot be obtained separately, the Commission's packing list satisfies the conditions 40(b) of the Notification, the said submission has wrongly been declined by the Adjudicating Authority.

13. While submitting with respect to show cause notice no. 2 dated 14.12.2023 with respect to 102 past bills, it is submitted that the similar allegations have been leveled with respect to the respective imports as have been leveled in show cause notice no. 1. Based on the similar submission, Ld. Counsel mentioned that there is no violation of any condition of the notifications in question. Sole reliance on a single CRCL report to the impugned 102 past Bills of Entry across different countries filed during different periods is alleged to be an impermissible extra polation. The Bills of Entries of this show cause notice have not been dealt with the individualized findings by the Adjudicating Authority below.

14. While submitting with show cause notice no. 3, learned counsel has submitted that the said show cause notice dated 22.04.2024 is qua 59 Bills of Entries. One Bill of entry thereof is common to show cause notice 1 and remaining 58 BOEs are common to show cause notice 2. The confirmation of separate differential customs duty in the name of the said show cause notice is liable to be set aside on this ground itself. In addition, it is submitted that once the demand does not survive the

confiscation of the imported goods ordered under section 111(m), 111(a) and 111(q), the redemption fine under section 125, the interest under section 28(AA) and the penalties under section 112(a), 112(b) and 114AA of the Customs Act do not at all survive. The personal penalties on the director as well as the custom broker also cannot sustain.

15. Learned counsel submitted that the department was not allowing even the provisional release of the imported gold dore bars, however the permission was granted by this Tribunal vide order dated 05.12.2023 with respect to 20 GDBs above 5kg. The Revenue appeal before Hon'ble High Court Delhi was dismissed vide order dated 08.02.2024. The provisional assessment of Bills of Entry pursuant to those orders has wrongly been denied finalization. Bank guarantees have wrongly been cancelled. With these submissions the order under challenge is prayed to be set aside and confiscated gold and silver is prayed to be released and the appeal is prayed to be allowed.

16. While rebutting the submissions made on behalf of appellant, Ld. DR appearing for the department reiterated the discussions and findings given in the impugned Order-in-Original. Following submissions have been made by Ld. DR appearing for the department:

The importer's claim of a Nil duty rate under Notification No. 96/2008-Cus, which provides exemptions for goods from Least Developed Countries (LDCs) like Tanzania, violated the license condition mandating compliance with Notification No. 12/2012-Cus (or its successor). This contravention rendered the import ineligible under the license, as the license explicitly restricted the importer to the specified notification.

The explicit condition whereof is that imports must comply with Notification No. 12/2012 Cus dated 17.03.2012 (superseded by Notification No. 50/2017-Cus dated 30.06.2017) and applicable Reserve Bank of India (RBI) notifications. This condition of import license issued by DFFT to M/s Tasha Gold Pvt. Ltd. for importing Gold Dore Bars (up to 95% purity, CTH 71081200) are non-negotiable, as Gold Dore Bars are classified as "restricted" under the Foreign Trade Policy (FTP) 2015-2020 and 2023-28, requiring strict adherence to license terms.

17. Ld. DR has relied upon the decision of Hon'ble Delhi High Court in the appellant case of M**/s Tasha Gold Pvt. Ltd. vs. Union of India (W.P.(C) 1137/2023, para 12)** where it is held that:

> an importer is "mandatorily required" to comply with the conditions of the notification specified in the import license (Notification No. 12/2012-Cus, superseded by Notification No. 50/2017-Cus). The court rejected the petitioner's argument that they could rely on the 2008 notification for imports from LDCs, emphasizing that the license's reference to the 2012 notification (and its successor) overrides any other exemption. This precedent directly applies to the present case, as the facts are identical: the importer claimed an LDC exemption (Notification No. 96/2008-Cus) despite the license mandating Notification No. 12/2012-Cus. The Tasha Gold judgment (para 13) further clarifies that:
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> > the importer cannot unilaterally rely on an alternative notification (e.g., Notification No. 96/2008 Cus) when the license specifies a particular notification. The court noted that the petitioner never sought amendment of the license conditions, a point equally applicable here, as M/s Narrondas Manordass did not approach the DGFT to modify the license to allow clearance under Notification No. 96/2008-Cus.

18. The license conditions, including compliance with Notification No. 12/2012-Cus (or Notification No. 50/2017-Cus), are enforceable under Section 11 of the Foreign Trade (Development & Regulation) Act, 1992, and Paragraph 2.04 of the FTP, which empower the DGFT to specify procedures and conditions for imports.

19. The importer's non-compliance with the license conditions rendered the goods liable for confiscation under Sections 111(d) and 111(0) of the Customs Act, 1962. Section 111(d) applies to goods imported contrary to any prohibition or restriction under the Customs Act or other laws, such as the FTP. Section 111(0) applies to goods exempted subject to conditions that are not observed. The appellant's own case judgment of Delhi High Court (para 12) supports this position by affirming that non compliance with the conditions of the specified notification (e.g., weight and purity requirements) justifies action under the Customs Act. In the present case, the importer's failure to adhere to the mandated notification constitutes a violation of license conditions, making the goods liable for confiscation. However, as the goods were already cleared after final assessment, no redemption fine was imposed, aligning with Section 125 of the Customs Act. With these submissions and that the directors of the Importer & its CHA, all, had knowledge about the violations, all the appeals are prayed to be dismissed.

20. Having heard both the parties perusing the entire record following questions are observed to be adjudicated:

i) Whether the appellant while importing the gold dore bars/precious metals vide the Bills of entry covered under three of the impugned show cause notices has violated the Notification No. 50/2017 dated 30.06.2017 which had superseded the earlier Notification No. 12/2012 dated 17.03.2012 read with Notification

No. 96/2008 dated 13.08.2008, thereby availing the benefit of exemption;

ii) Whether there is no ground for confiscation of goods or imposition of penalty on all the appellants include the Directors of the importing firm and their Custom House Agent;

iii) Whether appellant could simultaneously derive benefit of another Notification No. 96/2008 dated 13.08.2008.

Issuewise findings are as follows:

Issues No. (i) & (ii)

21. Both these issues are taken together being interlinked. It is observed that the appellant's company M/s TGPL was issued three DGFT licenseS for importing gold dore bars as below:

Authorization No.	**Authorization Date**	**CTH in which License was issued**	**Quantity allowed**
0550004073	02.07.2018	71081200	500 KG
0519239322	18.09.2020	71081200	500 KG
0111003380	23.03.2022	71081200 (Monetary)	5 Metric ton

22. The Gold Dore Bars are admittedly the gold bars of purity up to 95% only and are classifiable under CTH 71081200. The license of import thereof as issued in favour of appellant had an explicit condition that the imports must be complying the condition of Notification No. 12/2012 dated 17.03.2012 superseded by Notification No. 50/2017 dated 30.06.2017 and applicable notifications of Reserve Bank of India. However, importer M/s TGPL has claimed a nil duty rate of Basic Customs Duty[4] under Notification No. 96/2008 which provides exemption for goods imported from least developed countries[5] like African Countries as Tanzania, Rwanda etc.

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4 **BCD**
5 **LDCs**

23. To adjudicate the above issue in light of this fact we have foremost perused the concerned notifications. The relevant portion/entries at serial no. 354 of the said Notification No. 50/2017 reads as follows:

Sr. No.	**Chapter or heading or sub-heading or tariff item**	**Description of goods**	**Standards rate**	**IGST**	**Condition No.**
354	71	Gold Dore bar, having gold content not exceeding 95%	9.35%	-	9 and 40

Therefore, as per the said Notification, an importer must follow Condition No-09 & 40 as detailed below:

Table-6

Condition No.	Condition
9.	If the importer follows the procedure set out in the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017.
40.	If,- a) the goods are directly shipped from the country in which they were produced and each bar has a weight of 5 kg. or above; b) the goods are imported in accordance with the packing list issued by the mining company by whom they were produced; c) the importer produces before the Deputy Commissioner of Customs or the Assistant Commissioner of Customs, as the case may be, an assay certificate issued by the mining company or the laboratory attached to it, giving detailed precious metal content in the dore bar; d) the gold Dore bars are imported by the actual user for the purpose of refining and manufacture of standard gold bars of purity 99.5% and above; and e) the silver Dore bars are imported by the actual user for the purpose of refining and manufacture of silver bars of purity 99.9% and above.

24. The facts of the present case are that the goods have not been imported in accordance with the packing list issued by the mining company M/s Ngali, it is only the packing list and Assay Certificate which is issued by the supplier M/s Equinox has been provided. It has also

come on record undisputedly, that the imported gold dore bars were got tested from CRCL and the purity of these bars were found to be more than 95%. Apparently and undisputedly, the weight and the purity criteria of condition no. 40(a) and 40(b) and even 40(c), as mentioned above, has not been strictly fulfilled by the appellants while importing the GDBs in question. From the perusal of the above conditions of the above notification it appears to be the statutory requirement thereof that while importing gold dore bars, the same should be in accordance with the packing list issued by the mining company and statutorily it was not to be left to the discretion of the supplier or the trader.

25. In the present case, the submissions of the appellants as recorded in para 8(i) to 8(iv) above are the clear acknowledgement of the fact that the condition of the exemption notification i.e. condition no. 9 and 40(a)-40(c) have not been strictly followed. The law has been settled by hon'ble Supreme Court. In the case of **Krishi Upaj Mandi Samiti, New Mandi Yard, Alwar v. Commissioner of Central Excise and Service Tax, Alwar, February 23, 2022 Civil Appeal No. 1482 of 2018 reported as (2022) 1 SCR 700** where the apex court has held:

> "The exemption notification should not be liberally construed and beneficiary must fall within the ambit of the exemption and fulfill the conditions thereof. In case such conditions are not fulfilled, the issue of application of the notification does not arise at all by implication.
> 23. It is settled law that the notification has to be read as a whole. If any of the conditions laid down in the notification is not fulfilled, the party is not entitled to the benefit of that notification. An exception and/or an exempting provision in a taxing statute should be construed strictly and it is not open to the court to ignore the conditions prescribed in the relevant policy and the exemption notifications issued in that regard.
> 24. The exemption notification should be strictly construed and given a meaning according to legislative intendment. The Statutory provisions providing for exemption have to be interpreted in light of the words employed in them and there cannot be any addition or subtraction from the statutory provisions.
> 25. As per the law laid down by this Court in a catena of decisions, in a taxing statute, it is the plain language of the provision that has to be preferred, where language is plain and is

> capable of determining a defined meaning. Strict interpretation of the provision is to be accorded to each case on hand. Purposive interpretation can be given only when there is an ambiguity in the statutory provision or it results in absurdity, which is so not found in the present case."

26. The Apex Court in the case of **Commissioner of Customs vs M/s Dilip Kumar and Company reported as (2018) 9 SCC 1,** also the five judge bench of hon'ble Supreme Court has enumerated following Key Principles about exemption notifications:

- Strict Interpretation of Exemptions: Exemption clauses and notifications must be construed strictly.
- Burden of Proof: The onus rests squarely on the assessee (the taxpayer) to prove that they satisfy all parameters required to claim an exemption.
- Benefit of Ambiguity Goes to Revenue: If an exemption notification contains an ambiguity regarding its applicability or eligibility, the benefit of that doubt cannot be claimed by the assessee and must be resolved in favor of the Revenue.
- Distinction from Charging Provisions: While an ambiguity in a general charging section of a tax statute is interpreted in favor of the assessee, an ambiguity in an exemption notification works against the assessee.
- Overruling Prior Rulings: The Court explicitly overruled the contrary view held in the Sun Export Corporation case and similar judgments which previously advocated for a liberal construction of ambiguous exemption notifications.

27. Reverting to the facts of present appeal, we observe that he appellant, on being inquired, had shown their inability to provide the packing list as is also apparent from the statements of the appellant recorded under Section 108 of the Customs Act, 1962. The deponents

have acknowledged that it is not possible for them to supply the packing list issued by the individual mining companies for it to be not feasible anymore. The Assay Certificate was also expressed to be not feasible. Even the Managing Director of M/s Committee Cargo Care Shri Rajiv Sharma, the CHA of the importer while deposing under section 108 of the Act though acknowledged to revert back vis-a-vis the documents showing compliance of all the requirements of conditions no. 40 of the Notification question i.e. entry no. 354 of Notification No. 50/2017, however none of those documents could ever be provided by the appellant.

28. Though learned counsel for the appellant has objected the admissibility of these testimonies for want of any corroboration. However, we observe that the position with respect to these statements recorded under section 108 of the Customs Act has been settled, Section 108 of the Customs Act, 1962 allows Customs officers to summon any person for inquiry, treats those proceedings as "judicial proceedings" equivalent to testimony before a court and permits the statements to be used as substantive evidence in a trial. A confession made to a police officer is inadmissible in court. A confession made to a customs officer, if deemed voluntary, is admissible. That distinction—settled by a line of Constitution Bench judgements going back to **Ramesh Chandra Mehta v State of West Bengaland Illias v Collector of Customs** in the late 1960s—means that a confession recorded by a Customs officer carries full evidentiary weight as substantive evidence, provided it is found to be voluntary. Hon'ble Bombay High Court in Paragraph 11 of **The Assistant Collector of Customs v Hasanali Rumi (2019), Near Law (Bom. H.C.) online 2880 in Criminal Appeal No. 136/1995** while upholding an acquittal, asked: If courts were to simply accept Section 108

statements as "gospel truth", why would there be a need to hold a trial at all? Court held that: it was reasonable to infer coercion.

29. The issue of Section 108 confessions again returned to the Supreme Court in case of **Amad Noormamad Bakali v State of Gujarat, in Criminal Appeal No. 1232-1237 of 2012.** Vide judgment dated 23.02.2026 Supreme Court reiterated that confession to Customs officer is admissible as evidence. The Supreme Court reaffirmed one of the most contested principles in Indian evidence law. Placing reliance on **K.I. Pavunny v Assistant Collector (HQ), Central Excise Collectorate, Cochin (1997)**, the Court held that statements recorded by customs officers are admissible as substantive evidence provided they are made voluntarily, and do not attract the bar under Sections 24, 25, or 30 of the Indian Evidence Act. The basis for this distinction is that Customs officers are not police officers and therefore the Evidence Act's bar on police confessions does not apply to them. In **Radhika Agarwal v Union of India, W.P.(Crl.) No.336 of 2018** & connected matters a three-judge Bench addressed a batch of 279 petitions challenging the arrest and interrogation powers of Customs and GST officers. The Court upheld those powers but insisted on procedural safeguards such as recorded reasons for arrest, adherence to constitutional guarantees and protection against coercive pre-adjudicatory action. Crucially, it reaffirmed that Customs officers are not police officers, meaning Section 108 statements retain their full evidentiary weight.

30. In **Poolpandi v Superintendent, Central Excise 1992 SCR (3) 247** the Supreme Court rejected the argument that questioning a person in a Customs office—without the presence of a lawyer or friends—violates Article 21. The Court held that such interrogation does not, by itself, infringe the right to life and personal liberty.

31. From the above legal discussion and the undisputed fact that the documents as required to fulfill the conditions of the notification no. 50/2017 are not on record corroborates the statements on record acknowledging/admitting the non-compliance of the conditions of the relevant notifications. As already observed above that the submissions made on behalf of appellants before use are the admission to the fact that the notification in question was the condition of import license issued by DGFT in favour of appellants to import GDBs but the same has not been strictly followed. The appellant submits that only one out of several bars, the weight criteria was not made with and that the extent of purity beyond 95% was within the permissible variation/error, is not acceptable. In the light of the above discussion about interpreting and comply with the conditions of the notifications strictly we hold that the appellant has wrongly availed the exemption benefit. Once it is clear that conditions of import are not complied with the imported goods become the prohibited goods in terms of section 2(33) of the Customs Act, 1962. The goods are rightly ordered confiscation under Section 111 of the Customs Act. Since the importer, its directors & its CHA all have attempted to clear such goods. The penalties upon all the appellants have rightly been imposed under Section 112 and 114A of the Act. In light of the above discussion both the issues are decided against the appellants.

Issue No. (iii):

32. The appellant has simultaneously availed the benefit of nil duty of Notification No. 96/2008 dated 13.08.2008 which is in respect of import from least developed countries while importing GDB's under import license already mandating compliance of the conditions of another Notification Nos. 50/2017 and Notification No. 96/2008. The countries

like Tanzania and Rwanda are specified in the appendix to the notification no. 96/2008. However, for any such notification, the most cogent document is the Certificate of Country of origin issued by the designated authority of the said country. Department has observed that serial no. 12 of the said certificate states that " it is hereby certified, on the basis of control carried out, that the declaration by the exporter is correct" the certificate mentions HS '71081200. Thus the certificate was based on exporter's declaration only and on the verification of the competent authority.

33. Though the appellant has taken the plea that the importer/assessee can avail the benefits of several notifications at one point of time, however, as already observed above that strict interpretation to all notifications has simultaneously to be given i.e. the conditions of all the notifications have to be strictly with to avail the simultaneous benefit of the requisite notifications. The condition about the authentic certificate of origin has not been complied as the same has been issued on the basis of "control carried out" that is based on the exporters information only. This amounts to be the non-compliance of the condition of the notification no. 96/2008. Since the only outcome of the wrong availment of the exemption notification is the evasion of customs duty. Since the importer, it's directors and its CHA all had knowledge about non-fulfillment of the conditions, we hold that the appellants have intentionally manipulated the benefits of the different notifications simultaneously without fulfilling the conditions thereof. It was done with the sole intent to evade the customs duty while importing the product as that of gold dore bars, which are nothing but the prohibited goods in case the condition of their import license are not complied with. Hence we do not find any infirmity in the order when the

customs duty has been demanded from the importer and the penalties under section 112a and 114A have been imposed upon the importer, its directors and its CHA. Issue No.(iii) also gets decided in favour of the department.

34. In the light of the entire discussion on these of the issues being decided against the appellants, we find no infirmity in the order under challenge (O-I-O dated 31.03.2023). The order under challenge is hereby upheld. Consequently, all the eleven appeals are hereby dismissed.

(Order pronounced in the Open Court on 15.09.2026)

(RACHNA GUPTA)
OFFICIATING PRESIDENT

(HEMAMBIKA R. PRIYA)
MEMBER(TECHNICAL)

Shenaj