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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% ***Judgment reserved on: 09.07.2026***

Judgment pronounced on: 05.08.2026

Judgment uploaded on: 05.08.2026

\# **CNR No. DLHC010198372023**

\+ W.P.(C) 6948/2023

OGULJEREN DERCHIYEVA ......Petitioner

Through: Dr. Ashutosh, Mr. S.S. Arora, Mr. Abhijeet Sagar, Ms. Fatima, Advs

versus

UNION OF INDIA .....Respondent

Through: Mr. Devvrat Yadav, SPC with Mr. Kartik Sharma, GP for UOI.
Ms. Anushree Narain, Mr. Maman Chola, Mr. Apurv Yadav, Advs.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MS. JUSTICE SHAIL JAIN

J U D G M E N T

ANIL KSHETARPAL, J.:

1. Through the present Writ Petition, the Petitioner seeks issuance of a writ in the nature of *certiorari* for quashing the order dated 27.07.2022 [‘Impugned Order’] passed by the Additional Secretary to the Government of India, Ministry of Finance, Department of Revenue, exercising revisional jurisdiction under Section 129DD of the Customs Act, 1962. By the said order, while partly allowing the

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revision applications, the Revisional Authority set aside the direction contained in the Order-in-Original dated 29.09.2021, as affirmed by the Commissioner of Customs (Appeals), permitting re-export of the confiscated gold on payment of redemption fine. Consequently, the Petitioner also seeks a writ of *mandamus* directing the Respondent to permit re-export of the seized gold upon such terms as this Court may deem appropriate.

2. The principal issue which arises for consideration in the present Petition is whether the Revisional Authority, in exercise of its jurisdiction under Section 129DD of the Customs Act, 1962 [‘Customs Act’], was justified in setting aside the order of the Adjudicating Authority permitting redemption of confiscated gold by way of re-export under Section 125 of the Customs Act, on the ground that re-export of goods forming part of a passenger's baggage is specifically governed by Section 80 of the Customs Act and not by Section 125 thereof.

FACTUAL MATRIX:

3. In order to appreciate the controversy involved in the present Petition, the relevant facts, in brief, are required to be noticed.

4. The Petitioner, a national of Turkmenistan, arrived at the Indira Gandhi International Airport, New Delhi, on 01.05.2019 from Turkmenistan. According to the Respondent, after crossing the Green Channel and while proceeding towards the exit gate of the International Arrival Hall, the Petitioner was intercepted by the Customs authorities. Upon being questioned, she is stated to have

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denied carrying any dutiable, restricted or prohibited goods. Thereafter, a search of her hand baggage resulted in the recovery of 06 gold bars of 999 purity weighing 600 grams and various gold ornaments comprising 18 gold chains, 01 gold ring, 06 gold bracelets and 01 gold pendant of 585 purity weighing 1,825 grams, aggregating to 2,425 grams of gold, valued at Rs. 48,52,474/- at the relevant time. The aforesaid gold was seized by the Customs authorities on the allegation that the Petitioner had failed to declare the same in accordance with the provisions of the Customs Act.

5. Pursuant thereto, a show cause notice came to be issued to the Petitioner alleging, *inter alia*, that the recovered gold was liable to confiscation under the provisions of the Customs Act. The Petitioner contested the proceedings, asserting that she had been falsely implicated and that the statement purportedly recorded under Section 108 of the Customs Act had neither been voluntarily made nor correctly recorded. It was also her case that she intended to utilise the gold for financing her medical treatment in India and had purchased the same in Turkmenistan.

6. The Joint Commissioner of Customs, by Order-in-Original dated 31.12.2020, concluded that the recovered gold was liable to confiscation under Sections 111(d), 111(i), 111(j), 111(l) and 111(m) of the Customs Act. Besides imposing penalties under Sections 112 and 114AA of the Customs Act and confirming the demand of customs duty together with consequential penalty in respect of the Petitioner's alleged previous imports, the Adjudicating Authority, in exercise of powers under Section 125 of the Customs Act, granted the

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Petitioner an option to redeem the confiscated gold by directing that the same be permitted to be re-exported upon payment of redemption fine of Rs. 8,00,000/-.

7. Aggrieved by the quantum of redemption fine and penalty imposed under the Order-in-Original dated 31.12.2020, the Petitioner preferred an appeal before the Commissioner of Customs (Appeals). Simultaneously, the Respondent-department also preferred an appeal contending that, having regard to the quantity and nature of the recovered gold, the Adjudicating Authority ought to have ordered absolute confiscation instead of permitting re-export upon payment of redemption fine. By Order-in-Appeal dated 29.09.2021, the Commissioner of Customs (Appeals) dismissed both the appeals and affirmed the Order-in-Original dated 31.12.2020 in its entirety.

8. Both the Petitioner as well as the Respondent thereafter invoked the revisional jurisdiction of the Central Government under Section 129DD of the Customs Act against the order dated 29.09.2021. The Petitioner sought reduction of the redemption fine and penalties, whereas the Respondent questioned the legality of the direction permitting re-export of the confiscated gold.

9. By the Impugned Order, the Revisional Authority partly allowed both revision applications. While accepting the Petitioner's contention that the demand of customs duty and consequential penalty under Section 114A of the Customs Act relating to the Petitioner's alleged previous imports could not be sustained, it further held that, in matters relating to passenger baggage, re-export is specifically

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governed by Section 80 of the Customs Act and, in the absence of compliance with the statutory requirements contained in Sections 77 and 80 thereof, the Adjudicating Authority could not have permitted re-export of the confiscated gold by invoking Section 125 of the Customs Act. Consequently, the direction permitting re-export of the confiscated gold was set aside.

10. It is this part of the Impugned Order, whereby the benefit of re-export granted by the Adjudicating Authority and affirmed by the Commissioner of Customs (Appeals) came to be withdrawn, which has been assailed by the Petitioner in the present proceedings.

CONTENTIONS OF THE PARTIES:

11. Contentions on behalf of the Petitioner:

11.1. Learned counsel for the Petitioner submitted that the Impugned Order proceeds on an erroneous interpretation of the provisions of the Customs Act. It was contended that both the Adjudicating Authority as well as the Commissioner (Appeals), after considering the entire material on record, had exercised the discretion vested under Section 125 of the Customs Act to permit redemption of the confiscated gold by allowing its re-export upon payment of redemption fine. According to the learned counsel, the Revisional Authority exceeded the limited scope of its jurisdiction under Section 129DD of the Customs Act in upsetting concurrent findings which neither suffered from perversity nor disclosed any error of law.

11.2. It was submitted that the Petitioner had travelled to India solely for obtaining medical treatment. In support thereof, reliance was placed upon the medical invitation letter dated 11.01.2019 issued by Jaypee Hospital, Noida, recording that the Petitioner had been advised to undergo treatment under Dr. Sandeep Chaddha, Senior Consultant, Department of Obstetrics and Gynaecology, and requesting issuance of a Medical (M) Visa. It was argued that the aforesaid document, which formed part of the record, clearly demonstrated the *bona fides* of the Petitioner's visit to India and corroborated her consistent case that she intended to raise funds for her medical treatment.

11.3. It was then contended that the Order-in-Appeal dated 29.09.2021 specifically noted that the Petitioner had consistently maintained that the recovered gold belonged to her, that it had been purchased by her in Ashgabat, Turkmenistan, and that she intended to sell the same to generate funds for her medical treatment in India. It was submitted that even according to the findings recorded by the Appellate Authority, the Petitioner's case regarding ownership of the seized gold and the purpose for which it had been brought to India had remained consistent throughout the proceedings.

11.4. It was further submitted that the Order-in-Appeal dated 29.09.2021 specifically records that the Petitioner had claimed ownership of the seized gold from the very inception, including in her statement recorded under Section 108 of the Customs Act, that the Adjudicating Authority had found no material to disbelieve such claim, and that no third person had ever asserted ownership over the seized gold. It was further noticed therein that even the departmental appeal failed to place any material contradicting the Petitioner's

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ownership. On the strength of these findings, learned counsel submitted that the Revisional Authority was not justified in interfering with the discretion exercised by the Adjudicating Authority permitting redemption by way of re-export.

11.5. It was further contended that the reliance placed by the Respondent upon Section 80 of the Customs Act is wholly misconceived. It was argued that Section 80 merely enables a passenger, who has made a declaration under Section 77 of the Customs Act, to seek detention of goods for subsequent re-export and operates in an entirely different field. According to the learned counsel, once the goods had already been confiscated and the Adjudicating Authority had exercised its statutory discretion under Section 125 of the Customs Act by permitting redemption upon payment of fine, the provisions of Section 80 operated in an altogether different field and did not govern the exercise of discretion under Section 125 of the Customs Act.

11.6. In support of the aforesaid submissions, reliance was placed upon the decision dated 21.08.2023 of this Court in ***Nidhi Kapoor v. Principal Commissioner and Additional Secretary to the Government of India & Ors.***[1], to contend that the power of redemption under Section 125 of the Customs Act is an independent statutory discretion and that, even in respect of goods held to be prohibited, redemption is not altogether excluded but remains a matter for the adjudicating authority to decide on the facts of each case. It was submitted that the Revisional Authority could not interfere merely

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because it preferred a different view regarding the exercise of such discretion.

11.7. It was lastly submitted that the Revisional Authority failed to appreciate the Petitioner's contention that the statement recorded under Section 108 of the Customs Act ought not to have been relied upon, as it was not recorded in a language understood by the Petitioner and was allegedly obtained with the assistance of an interpreter who was not officially notified. It was contended that the Petitioner, being a national of Turkmenistan, understood only the Turkmen language and, therefore, no adverse inference could have been drawn solely on the basis of such statement.

12. Contentions of the Respondent:

12.1. *Per contra*, learned counsel for the Respondent supported the Impugned Order and contended that the Revisional Authority acted strictly within the ambit of the powers conferred under Section 129DD of the Customs Act, which expressly authorises the Central Government to annul or modify an order passed by the Commissioner of Customs (Appeals). According to the learned counsel, the Impugned Order neither re-appreciates the evidence nor substitutes one plausible view for another, but rectifies an order which was contrary to the statutory scheme governing import and re-export of goods forming part of passenger baggage.

12.2. It was further submitted that the Petitioner cannot be regarded as a first-time offender. Drawing attention to the findings recorded by the Commissioner (Appeals), it was contended that the Petitioner's own statements recorded under Section 108 of the Act disclose that she had, on an earlier occasion as well, brought gold into India, sold the same in the domestic market and utilised the proceeds for her medical treatment. It was further submitted that the Petitioner had failed to produce any documentary evidence, including purchase invoices, to establish lawful acquisition or ownership of such a large quantity of gold. According to the learned counsel, the Petitioner's own disclosed financial condition also rendered her explanation inherently improbable and constituted an additional circumstance which the Adjudicating Authority failed to adequately appreciate while extending the discretionary benefit of redemption coupled with re-export.

12.3. It was submitted that both the Adjudicating Authority as well as the Commissioner (Appeals) had concurrently held the seized gold to be "prohibited goods". Once the seized gold had been held to constitute prohibited goods, redemption under Section 125 was not a matter of right and the discretion vested in the Adjudicating Authority was required to be exercised judiciously and on the basis of relevant and legally sustainable considerations. It was further submitted that considerations such as the Petitioner's medical treatment or humanitarian circumstances could not furnish a legal basis for exercising discretion under Section 125 of the Customs Act.

12.4. It was next contended that the Petitioner's challenge proceeds on an erroneous understanding of the scope of the revisional jurisdiction under Section 129DD of the Customs Act. Inviting the attention of the Court to the language employed in Section 129DD, it

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was submitted that the Central Government is expressly empowered to "annul or modify" an order passed by the Commissioner (Appeals). According to the learned counsel, where the discretion exercised by the subordinate authority is shown to be arbitrary, unsupported by relevant considerations or contrary to the statutory framework, nothing in Section 129DD precludes the Revisional Authority from interfering with such exercise of discretion. It was, therefore, submitted that the interference by the Revisional Authority falls squarely within the powers conferred by the statute.

12.5. It was further submitted that the seized gold did not constitute *bona fide* baggage permissible under the applicable Baggage Rules and, therefore, could not claim the benefit available to passengers importing personal baggage. Consequently, it was contended that the gold constituted 'prohibited goods' within the meaning of Section 2(33) of the Customs Act. Reliance was placed upon the decision of this Court in ***Nidhi Kapoor*** (supra), wherein it was held that gold imported in contravention of the applicable statutory restrictions constitutes prohibited goods and that, in such cases, redemption under Section 125 is not a matter of right but remains within the discretion of the competent authority, to be exercised in accordance with the statutory scheme.

12.6. Insofar as the Petitioner's challenge to the statement recorded under Section 108 of the Act is concerned, it was submitted that the said statement was recorded in the presence of independent witnesses and with the assistance of an independent interpreter. It was argued that the statement had never been retracted during the adjudication proceedings and that the allegations regarding coercion and improper interpretation were raised for the first time in the writ proceedings.

12.7. It was lastly submitted that the quantity of gold involved in the present case is substantial, namely 2425 grams, valued at more than Rs.48 lakhs at the relevant time. It was argued that extending the benefit of redemption coupled with re-export in such circumstances would dilute the statutory scheme intended to regulate import of valuable goods through passenger baggage and would undermine the statutory framework regulating the import of gold through passenger baggage.

ANALYSIS & FINDINGS:

13. This Court has carefully considered the submissions advanced on behalf of the parties and perused the material on record.

14. At the outset, it deserves notice that the scope of the present Petition is considerably narrow. The Petitioner has not assailed the findings recorded by the Adjudicating Authority, as affirmed by the Commissioner of Customs (Appeals), holding the recovered gold liable to confiscation under the provisions of the Customs Act. Equally, the Revisional Authority has already granted partial relief to the Petitioner by setting aside the demand of customs duty and the consequential penalty under Section 114A of the Customs Act in relation to the Petitioner’s alleged previous imports. Consequently, the only question which survives for consideration is whether the Revisional Authority was justified in interfering with that part of the Order-in-Original whereby the Adjudicating Authority permitted

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redemption of the confiscated gold by directing its re-export upon payment of redemption fine under Section 125 of the Customs Act.

15. The controversy essentially turns upon the proper interpretation of Sections 77, 80 and 125 of the Customs Act and the relationship between these provisions. For convenience, the said provisions read as under:

> *"77. Declaration by owner of baggage.—The owner of any baggage shall, for the purpose of clearing it, make a declaration of its contents to the proper officer."*
>
> *xxxx xxxx xxxx xxxx*
>
> *"80. Temporary detention of baggage.—Where the baggage of a passenger contains any article which is dutiable or the import of which is prohibited and in respect of which a true declaration has been made under section 77, the proper officer may, at the request of the passenger, detain such article for the purpose of being returned to him on his leaving India 1 [and if for any reason, the passenger is not able to collect the article at the time of his leaving India, the article may be returned to him through any other passenger authorised by him and leaving India or as cargo consigned in his name]."*
>
> *xxxx xxxx xxxx xxxx*
>
> *"125. Option to pay fine in lieu of confiscation.—(1) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods [or, where such owner is not known, the person from whose possession or custody such goods have been seized,] an option to pay in lieu of confiscation such fine as the said officer thinks fit:*
>
> *[Provided that where the proceedings are deemed to be concluded under the proviso to sub-section (2) of section 28 or under clause (i) of sub-section (6) of that section in respect of the goods which are not prohibited or restricted, the provisions of this section shall not apply:*
>
> *Provided further that], without prejudice to the provisions of the proviso to sub-section (2) of section 115, such fine shall not exceed the market price of the goods confiscated, less in the case of imported goods the duty chargeable thereon.*

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[(2) Where any fine in lieu of confiscation of goods is imposed under sub-section (1), the owner of such goods or the person referred to in sub-section (1), shall, in addition, be liable to any duty and charges payable in respect of such goods.]

[(3) Where the fine imposed under sub-section (1) is not paid within a period of one hundred and twenty days from the date of option given thereunder, such option shall become void, unless an appeal against such order is pending.

Explanation.—For removal of doubts, it is hereby declared that in cases where an order under sub-section (1) has been passed before the date on which the Finance Bill, 2018 receives the assent of the President and no appeal is pending against such order as on that date, the option under said sub-section may be exercised within a period of one hundred and twenty days from the date on which such assent is received.]"

16. A perusal of the above provisions reveals that Section 77 casts a mandatory obligation upon every passenger arriving in India to truthfully declare the contents of his or her baggage before clearance by the Customs authorities. Section 80, which specifically deals with passenger baggage, creates a limited statutory exception. It enables the proper officer, upon the request of the passenger, to detain dutiable or prohibited articles for the purpose of their subsequent return or re-export. However, this statutory benefit is not available universally. The Legislature has consciously made its availability conditional upon the passenger having made a true declaration under Section 77. Section 125, on the other hand, operates in an altogether different field. It empowers the adjudicating authority to grant an option to redeem confiscated goods upon payment of redemption fine. The provision neither specifically deals with passenger baggage nor expressly authorises re-export of confiscated baggage irrespective of compliance with Section 80.

17. The legislative scheme, therefore, indicates that while Section

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125 confers a general discretionary power regarding confiscated goods, Section 80 constitutes a special statutory code governing return or re-export of goods forming part of passenger baggage, provided a true declaration has been made under Section 77 of the Customs Act.

18. At this stage, it also becomes necessary to notice the language employed in Section 125. The provision draws a clear distinction between two categories of goods. In respect of goods whose import or export is prohibited under the Customs Act or under any other law for the time being in force, the adjudicating authority "may" grant an option to redeem the confiscated goods. However, in respect of "any other goods", the adjudicating authority "shall" grant such an option.

19. The expression "any other goods" cannot be read in isolation. It merely refers to goods which do not fall within the preceding category of prohibited goods. The Legislature has, therefore, consciously adopted two different standards. While redemption of non-prohibited goods is ordinarily mandatory, redemption of prohibited goods has been left entirely to the judicial discretion of the adjudicating authority. Such discretion, however, is neither absolute nor unstructured. Like every statutory discretion, it must be exercised in conformity with the object, purpose and overall scheme of the enactment. The Legislature has consciously conferred discretion in one category and imposed an obligation in the other. Such legislative differentiation cannot be ignored by treating both categories alike. To do so would amount to rewriting Section 125 rather than interpreting it.

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20. The legislative distinction is, therefore, deliberate. Parliament has consciously denied an automatic right of redemption in respect of prohibited goods. If the expression "any other goods" occurring in Section 125 were interpreted so broadly as to include prohibited goods as well, the distinction drawn by the Legislature between the expressions "may" and "shall" would stand obliterated. Such an interpretation would render the opening part of Section 125 wholly redundant. Courts must presume that every word employed by Parliament has been used for a purpose and no part of the statute can be treated as superfluous.

21. Equally significant is what Section 125 does <u>not</u> provide. Although the provision authorises redemption of confiscated goods upon payment of fine, it nowhere provides that such redemption necessarily carries with it an entitlement to re-export the goods. Nor does it contain any non obstante clause overriding the special provisions governing passenger baggage. Had the Legislature intended Section 125 to independently authorise re-export of baggage irrespective of compliance with Section 80, it could easily have employed appropriate language to that effect. The conspicuous absence of such language assumes considerable significance.

22. It is a settled principle of statutory interpretation that a statute must be read as a whole and that every provision should be interpreted harmoniously so as to give effect to the legislative intent. Equally well settled is the principle that where a statute contains both a general provision and a special provision dealing with a particular subject, the latter ordinarily prevails over the former.

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23. Applying these principles, this Court is unable to accept the Petitioner's submission that Section 125 can be invoked to direct re-export of passenger baggage notwithstanding non-compliance with Section 80. Such an interpretation would virtually render the conditions incorporated in Section 80 redundant. If every passenger who failed to make a declaration under Section 77 could nevertheless seek re-export by invoking Section 125 after confiscation, the statutory safeguards consciously incorporated by Parliament in Section 80 would become wholly otiose. Courts must avoid an interpretation which renders any statutory provision nugatory or ineffective. Acceptance of the Petitioner's submission would, in effect, permit a passenger who has admittedly violated Section 77 to ultimately secure substantially the same benefit which Parliament has expressly reserved only for a passenger who has complied with Section 77. Such an interpretation would reward non-compliance and defeat the legislative object underlying Section 80.

24. The legislative object behind Section 80 also deserves emphasis. The benefit of detention for subsequent re-export is available only to a passenger who voluntarily approaches the Customs authorities and truthfully declares the goods carried by him or her. The statutory incentive contained in Section 80 is intended to encourage truthful disclosure at the point of entry into India. It is not designed to confer the same benefit upon a passenger who suppresses the existence of dutiable or prohibited goods, crosses the Green Channel and is thereafter intercepted upon detection by the Customs authorities. If the very same benefit could thereafter be claimed

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merely by invoking Section 125 after confiscation, every passenger carrying undeclared goods would have little incentive to comply with the mandatory declaration requirement under Section 77 in the first place. Such an interpretation would seriously undermine the efficacy of the statutory declaration mechanism and place an honest passenger, who complies with the law, on the same footing as one who consciously conceals goods until detection. Such a consequence could never have been intended by Parliament.

25. In the present case, it is an admitted position that the Petitioner neither declared the recovered gold under Section 77 nor requested detention of the same under Section 80. Rather, according to the record, she crossed the Green Channel and was intercepted only thereafter. The very jurisdictional facts necessary for invocation of Section 80 were, therefore, admittedly absent. Once the statutory conditions prescribed by the special provision were not fulfilled, the Adjudicating Authority could not have achieved the same result indirectly by invoking the general power contained in Section 125.

26. This Court is, therefore, in complete agreement with the reasoning adopted by the Revisional Authority that the order directing re-export was contrary to the statutory framework governing passenger baggage. The Revisional Authority merely restored the legislative balance contemplated by the Customs Act and cannot be said to have committed any jurisdictional error in doing so.

27. Learned counsel for the Petitioner sought to justify the order of re-export by emphasising that the Petitioner had brought the gold

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solely for financing her medical treatment in India. This submission also does not merit acceptance.

28. The only contemporaneous document placed on record in support of the Petitioner's visit to India is the medical invitation letter dated 11.01.2019 issued by Jaypee Hospital, Noida. The said communication merely records that the Petitioner had been advised treatment under a Senior Consultant in the Department of Obstetrics and Gynaecology and requests issuance of a Medical Visa.

29. Beyond the aforesaid document, no medical record whatsoever has been produced demonstrating the nature of the ailment, the necessity of treatment, the estimated expenditure involved, the proposed surgery or the financial requirement sought to be met by carrying such a substantial quantity of gold into India. Significantly, while it has been urged before this Court that the Petitioner required treatment for a serious neurological condition, including a brain surgery, no medical material supporting such assertion forms part of the record. On the contrary, the only medical document relied upon pertains to consultation with the Department of Obstetrics and Gynaecology. The evidentiary record, therefore, does not support the factual foundation on which the plea of compelling necessity has been sought to be built.

30. Even otherwise, the submission does not withstand legal scrutiny. The Customs Act regulates import of goods through a comprehensive statutory framework. The legislative object is to ensure transparency, declaration and compliance with customs laws.

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The statutory obligation to declare imported goods arises independent of the purpose for which such goods are intended to be utilised. Financial necessity or personal hardship, howsoever genuine, cannot authorise an individual to disregard the mandatory requirements governing import of valuable goods into the country.

31. Equally, the explanation offered by the Petitioner does not accord with ordinary human conduct and commercial prudence. If the object was merely to meet the expenses of medical treatment in India, there existed several lawful modes of arranging funds, including carrying permissible foreign currency through authorised channels or transferring funds through recognised banking mechanisms. The explanation offered by the Petitioner, by itself, cannot furnish a legal justification for disregarding the mandatory requirements of the Customs Act.

32. The interpretation canvassed on behalf of the Petitioner would also produce consequences which Parliament could never have intended. Every passenger found carrying undeclared high-value goods could, after interception, seek redemption coupled with re-export by asserting that the goods were intended for meeting personal expenses, medical treatment or some other compelling necessity. Such an interpretation would substantially erode the statutory obligation of declaration under Section 77 and reduce the safeguards incorporated in Section 80 to a matter of mere formality. Courts must avoid an interpretation which encourages circumvention of statutory obligations or renders the legislative safeguards ineffective.

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33. It also deserves notice that the quantity of gold involved in the present case is itself a relevant circumstance. The recovered gold weighs approximately 2.425 kilograms and was valued at more than Rs.48 lakhs at the relevant time. The quantity and value of the recovered gold reinforce the necessity for strict adherence to the statutory declaration mechanism prescribed under the Customs Act. The law does not contemplate that goods of such magnitude may be brought into India without declaration and thereafter permitted to be re-exported merely because the importer subsequently furnishes an explanation regarding their intended utilisation. The larger the quantity and value of the goods sought to be imported, the greater is the necessity for strict adherence to the declaration requirements contemplated by the Customs Act.

34. The submission that the Adjudicating Authority and the Commissioner (Appeals) had concurrently exercised discretion in favour of the Petitioner equally does not persuade this Court. A statutory discretion exercised upon an erroneous understanding of the governing provisions remains amenable to correction in revisional jurisdiction. Section 129DD of the Customs Act expressly authorises the Central Government to examine the legality and propriety of the order passed by the Commissioner (Appeals) and to modify or annul the same. Once the Revisional Authority found that the direction permitting re-export was inconsistent with the statutory framework governing passenger baggage, interference became not only permissible but necessary.

35. Equally devoid of merit is the contention that the Revisional

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Authority exceeded the permissible limits of its jurisdiction. The Revisional Authority has not reassessed disputed facts or substituted one plausible factual inference for another. The interference is founded entirely upon interpretation of the statutory provisions governing passenger baggage and redemption of confiscated goods. Correction of an order contrary to the statutory scheme squarely falls within the ambit of revisional jurisdiction under Section 129DD of the Customs Act.

36. The reliance placed upon the decision of this Court in ***Nidhi Kapoor*** (supra) also does not advance the Petitioner's case. The said decision reiterates that redemption under Section 125 is discretionary and not automatic. However, the issue arising in the present case is qualitatively different. The question here is whether the discretionary power under Section 125 can be exercised so as to confer a benefit which the Legislature has specifically regulated under Section 80. That question neither arose for consideration nor was decided in ***Nidhi Kapoor*** (supra). The judgment was principally concerned with the classification of undeclared imported gold as "prohibited goods" and the nature of the discretion exercisable under Section 125. It did not examine the interplay between Sections 80 and 125 of the Customs Act. The judgment is, therefore, clearly distinguishable.

37. The remaining submissions relating to the voluntariness of the statement recorded under Section 108 of the Customs Act, the alleged deficiencies in interpretation, the Petitioner's ownership of the gold and the surrounding factual circumstances no longer materially survive for consideration. The legality of confiscation is not under

challenge before this Court. The controversy is confined solely to the legality of permitting re-export under Section 125. Those factual submissions, therefore, do not have any bearing upon the legal issue requiring determination.

38. Lastly, this Court is conscious that the Petitioner's plea is sought to be projected as one deserving equitable consideration on account of her medical condition. However, sympathy cannot substitute statutory compliance. Judicial discretion must operate within the four corners of the legislative framework. Once Parliament has consciously prescribed the conditions subject to which the benefit of re-export may be claimed, Courts cannot create an additional equitable exception merely because the individual case appears deserving of compassion. The Customs Act represents a carefully balanced legislative framework regulating the import and export of goods, and its provisions cannot be diluted by invoking humanitarian considerations unsupported by the statutory scheme. Hard cases cannot be permitted to make bad law. The rule of law demands that statutory mandates be applied uniformly to all persons alike.

CONCLUSION:

39. Accordingly, for all the aforesaid reasons, this Court is of the considered opinion that the Revisional Authority committed no error in holding that the direction permitting re-export of the confiscated gold under Section 125 of the Customs Act was contrary to the statutory scheme governing passenger baggage.

40. The Impugned Order, insofar as it sets aside the direction

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permitting re-export, suffers from no jurisdictional error, perversity or patent illegality warranting interference under Article 226 of the Constitution of India.

41. Consequently, the present Writ Petition, being devoid of merit, is dismissed.

ANIL KSHETARPAL, J.

SHAIL JAIN, J.

AUGUST 05, 2026
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