

\$~48 & 49

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 13382/2018, C.M. APPL.52101-52102/2018**
YATENDER KUMAR SHARMA & ANR Petitioners
versus
ADDITIONAL COMMISSIONER OF CUSTOMS & ANR.
..... Respondents
+ **W.P.(C) 13384/2018, C.M. APPL.52103-52104/2018**
DEEPAK SHARMA Petitioner
versus
ADDITIONAL COMMISSIONER OF CUSTOMS & ANR.
..... Respondents
Through : Sh. Mukesh Anand, Advocate, for
petitioner, in 48 and 49.
Sh. Harpreet Singh, Sr. Standing Counsel with Ms.
Suhani Mathur, Advocate in 48 and 49.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **12.12.2018**

Issue notice. Sh. Harpreet Singh, Sr. Standing Counsel accepts notice.

In both these proceedings, the petitioners' grievance is that neither they were heard nor were they issued with Show Cause Notice for alleged misdeclaration of goods. The Customs authorities alleged that they have admitted to smuggling more than a kilo of gold which they wore upon their persons as items of jewellery.

The Court notices that in the impugned order, the concerned adjudicating authority/Additional Commissioner has noted that Show Cause Notices (SCNs) were waived and that the petitioners did not

wish a personal hearing.

Having heard the learned counsel for the parties, the Court is of the opinion that the petitioners' right to seek appellate remedies has not been exhausted and that it would be appropriate to avail it. In case the appellate Commissioner is of the opinion that a hearing is necessary, he may pass appropriate orders in that regard, which includes remitting the matter for fresh consideration or choosing to pass such orders as may be necessary, having regard to the circumstances of the case. In any event, it is made clear that the appellate Commissioner shall deal with the question of grant or otherwise, of the hearing and waiver of the SCN and also record reasons in this regard. The petitioners' remedies are kept open. In case the petitioners avail the remedy of appeal within two weeks, the appellate Commissioner shall not reject the petitioners' appeals on the ground of limitation but rather deal with it on merits.

The writ petitions are disposed of in the above terms.

Order *dasti* under the signatures of the Court Master.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

DECEMBER 12, 2018/ajk