

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

(Appellate Side)

Present: THE HON'BLE JUSTICE RAJARSHI BHARADWAJ

W.P.A 7637 of 2023

With

CAN 1 of 2024

Reserved on : 20.01.2025

Pronounced on: 07.04.2025

Dia Gold Jewels Private Limited

...Petitioner

-Vs-

Principal Commissioner of Income Tax Kolkata-2 & Ors.

...Respondents

Present:-

Mr. Ranjit Kumar Murarka

Mr. Vivek Murarka

Mr. Pramod Kumar Saraf

Mr. Dibanath Dey

... for the petitioner

Mr. Aryak Dutt

Mr. Soumen Bhattacharya

... .. for respondents

Rajarshi Bharadwaj, J:

1. In this writ petition, the petitioner challenges the disputed search and seizure of the gold ornaments in question, reportedly conducted by respondent no. 3 on November 14, 2022, at Ranchi Railway Station.
2. The petitioner, a Private Limited Company, operates under the Company Law, specializing in the design, craftsmanship and sale of fine gold and

studded stone jewellery. It has been a regular assessee under the Income Tax Act, 1961 (hereinafter referred to as the "said Act") since 2000, bearing PAN-AABCD3414B. The petitioner is registered with GST in West Bengal and Maharashtra under Registration Numbers 19AABCD3414B1Z9 and 27AABCD3414B1ZC, respectively.

3. The petitioner operates showrooms at the following locations: (i) No. 4, Lee Road, Sumangal Apartment, Kolkata-700020, (ii) City Centre Mall, Shop No. C002, Block DC, Sector-1, Salt Lake, Kolkata-700064 and (iii) Sukhsagar Building, Shop No. 11, Ground Floor, N.S. Patkar Marg, Hughes Road, Mumbai-400007. The petitioner frequently participates in jewellery shows, exhibitions and displays across various cities in India, including Ranchi, Guwahati, Delhi and Lucknow as these exhibitions serve dual purposes of showcasing crafted jewellery and taking orders for custom-made jewellery.

4. Similar jewellery shows were held in 2021 and 2022 include venues such as Saket Nagar in Ranchi, Apsara Banquet Hall in Guwahati, Hotel Ambassador-IHCL in Delhi and Taj Hotel in Lucknow, detailed of which including schedules of these exhibitions, dates of goods movement and exhibition timings, were maintained by the petitioner for records and verification.

5. The petitioner has been consistent in filing income tax returns and has been assessed regularly under the said Act by Respondent No. 2. For financial years from 2016-17 to 2021-22, the petitioner reported turnovers ranging from ₹6.85 crores to ₹13.33 crores and paid taxes accordingly. Assessment orders under Sections 143(3) and 143(1) of the said Act were passed for these years.

6. In November 2022, the petitioner planned an exhibition in Ranchi in association with one Devika Dhanuka, scheduled for November 14-15, 2022, at Dhanuka House, Saket Nagar, Kanke Road, Ranchi. For this purpose, two employees, Mr. Abhijit Pal and Mrs. Kirti Bazaz, were deputed to travel by

train from Kolkata to Ranchi on November 13, 2022, carrying 241 pieces of jewellery along with requisite documents, including transfer memos and certificates.

7. Upon arrival at the Ranchi Railway Station on November 14, 2022, the employees were intercepted by two individuals claiming to be RPF personnel. The jewellery and accompanying documents were confiscated and taken to the RPF office. Subsequently, Respondent No. 6 informed the Income Tax Department, leading to further interrogation and seizure.

8. The Income Tax Department officials, led by Respondent No. 3, arrived at the RPF office and interrogated the petitioner's employees. Summons under Section 131(1A) of the said Act were served and the jewellery was taken to the Income Tax office at Ranchi. The employees were detained separately, with Mrs. Kirti Bazaz accommodated at Crystal Residency Hotel and Mr. Abhijit Pal kept in the Income Tax office overnight.

9. On November 15, 2022, a government-approved valuer assessed the jewellery at ₹4.71 crores. A purported search warrant under Section 132 of the said Act was shown but not provided to the employees. The valuation and seizure were documented in a Panchnama, which incorrectly stated the valuation was done at the RPF office rather than the Income Tax office. The jewellery was eventually sealed at the RPF office in the early hours of November 16, 2022.

10. The petitioner's representatives, including one Mrs. Varda Goenka, visited the Income Tax office on November 15, 2022, to produce documents and clarify the legitimate nature of the jewellery. Despite providing manufacturing vouchers, stock registers and other records, the respondents refused to release the seized jewellery, causing significant prejudice and loss to the petitioner.

11. The petitioner submitted letters on November 21, 2022, December 1, 2022 and January 5, 2023, requesting the release of the seized jewellery.

Respondent No. 3, lacking jurisdiction, issued a notice on February 2, 2023, seeking additional details about the petitioner's Mumbai showroom. The petitioner responded in good faith on February 11, 2023.

12. On February 27, 2023, the petitioner informed Respondent No. 2 of the unlawful seizure and requested the release of the jewellery and copies of interrogation statements and other relevant documents were also sought for clarity and records.

13. In the interrogations, Mrs. Kirti Bazaz and Mr. Abhijit Pal provided detailed explanations regarding the purpose of their visit, stock records and the legitimacy of the jewellery. Despite their cooperation, the respondents refused to provide copies of their statements. The incident was widely publicized in a local newspaper, "Dainik Bhaskar," including photographs of the seized jewellery, causing reputational damage to the petitioner.

14. The seized jewellery remains in the respondents' possession without any lawful justification. The petitioner has provided all necessary documents to establish the legitimacy of the jewellery as stock-in-trade for its business operations. Thus, being aggrieved by the act of the respondent authorities, the present petition has been preferred.

15. The Learned Counsel for the petitioner submits that the seizure of its jewellery was arbitrary, unlawful and in violation of the provisions of the Income Tax Act, 1961. The jewellery in question is stock-in-trade and was being transported for a legitimate business purpose, supported by requisite documents.

16. The petitioner contends that Respondent No. 3 had no jurisdiction to seize the jewellery without proper authorization under Section 132A of the said Act. Furthermore, Respondent No. 6 (RPF) 's involvement in the seizure process was beyond its legal authority.

17. The petitioner asserts that the government-approved valuer's valuation of the jewellery and the subsequent Panchnama are procedurally flawed. The

discrepancies in the location of the valuation and the preparation of the Panchnama highlight the irregularities in the process.

18. The petitioner emphasizes that the prolonged detention and interrogation of its employees caused undue harassment and mental distress. The confiscation of their mobile phones and the refusal to provide copies of their statements further violated their rights.

19. The petitioner submits that the refusal of Respondents No. 3 and 4 to release the seized jewellery, despite multiple representations and the submission of supporting documents, constitutes a grave miscarriage of justice. The petitioner has been deprived of its stock-in-trade, resulting in significant financial loss and reputational damage.

20. The petitioner contends that the actions of the respondents have tarnished its reputation, as evidenced by the publication of the incident in local media. Such unwarranted publicity has adversely affected the petitioner's goodwill and business operations.

21. The petitioner prays for the immediate release of the seized jewellery, as its continued detention serves no purpose and is contrary to the principles of natural justice. The petitioner also seeks compensation for the financial losses and reputational damage suffered due to the respondents' unlawful actions.

22. The petitioner respectfully submits that it has acted in compliance with all legal and regulatory requirements. The respondents' actions, on the other hand, have been high-handed, arbitrary, and devoid of any legal basis.

23. Learned Counsel appearing for the respondent authorities submits that on 14th November 2022, the office of the Additional Director of Income Tax (Investigation), Ranchi, received information from one Suman Kumar Jha, Post Commander, RPF, S.E. Railways, Ranchi, herein the respondent no.6 that two railway passengers were detained by RPF, Ranchi, for carrying a substantial quantity of gold ornaments and other valuable jewellery.

24. The detained individuals stated in their recorded statements under Section 131(1A) of the said Act, that the jewellery belonged to Dia Gold Jewels Pvt. Ltd., the petitioner herein and they were employees of the company. They claimed that the items were being transported to Ranchi for a private exhibition at Dhanuka House, Saket Nagar, Kanke Road. However, they could only produce a letter dated November 12, 2022 issued by the company accountant and five transfer invoices, which were insufficient to substantiate their claim.

25. The detained individuals, one Kirti Bajaj and one Abhijit Pal, failed to provide stock registers, books of accounts or any written communication with Ms. Devika Dhanuka regarding the exhibition. They also admitted to not carrying a bill book or any mechanism to generate cash memos for the private exhibition.

26. The absence of a bill book or alternative billing mechanism heightened suspicion, as it indicated that sales could not be appropriately recorded in the company's books of accounts.

27. To ensure a fair and thorough investigation, an order under Section 131(1)(d) of the said Act, was issued, transferring the investigation to the jurisdiction of the DDIT (Investigation), Unit 6(1), Kolkata, herein respondent no. 4 where Dia Gold Jewels Pvt. Ltd. is headquartered.

28. The, respondent no. 4 issued summons to Dia Gold Jewels Pvt. Ltd. Accountant one Dinesh Bajoria appeared on 14th November 2022 and claimed that the detained jewellery was recorded in the company's books. However, he failed to reconcile the seized goods with the company's stock registry, stating that the company director, Ms. Varda Goenka, would address the discrepancy.

29. On 15th November 2022, one Ms. Varda Goenka produced some registers, including the purchase, sales, manufacturing, and stock registers,

but requested additional time to reconcile the jewellery. Despite being given two days, she could not provide sufficient evidence to match the seized items with the company's stock.

30. The detained individuals and company representatives claimed the jewellery weighed 4307 grams. However, upon verification, the actual gross weight of the seized gold was found to be 5441 grams, revealing a significant discrepancy.

31. Due to the failure to reconcile the jewellery with the company's accounts and the evident discrepancies, a warrant of authorization under Section 132(1)(c) of the said Act, was issued by the Principal Director of Income Tax (Investigation), Patna. Subsequently, the bags were opened in the presence of witnesses, and the jewellery was valued by a government-approved valuer.

32. It was alleged that the petitioner manufactured a chart submitted during the present litigation, which was not presented to the authorities earlier. All four individuals associated with the petitioner company maintained that the total weight of the gold was 4307 grams.

33. The petitioner company failed to provide proof of registration under Section 27 of the GST Act as a Casual Taxable Person or Non-Resident Taxable Person in Jharkhand.

34. The petitioner alleged that the jewellery was seized on 16th November 2022, but relevant documents were only sent by email on 17th November 2022 at 11:30 PM. This delay further justified the respondents' belief that the jewellery was unexplained at the time of seizure.

35. The respondents relied on the judgment of the Hon'ble Supreme Court in ***CIT v. Laljibhai Kanjibhai Mandalia*** reported in **(2022) 16 SCC 139** to support their case wherein the Court has emphasised the *Wednesbury's principle* stating:

“4. Wednesbury’s principle- A decision of a public authority will be liable to be quashed or otherwise dealt with by an appropriate order in judicial review proceedings where the court concludes that the decision is such that no authority properly directing itself on the relevant law and acting reasonably could have reached it. (Associated Provincial Pictures House Ltd. v. Wednesbury Corpn., per Lord Greene, M.R)”

36. Further, the petitioner’s audit report for the relevant assessment year (2023-24) disclosed 22,309 grams of gold as of March 31, 2023, but the reconciliation and verification of the intercepted jewellery remained unresolved. Therefore, owing to the lack of supporting documentation, discrepancies in weight and statements, and failure to establish that the seized jewellery was accounted for in the company’s books, the jewellery remains unexplained. The respondent authorities acted within their legal powers and the investigation is ongoing to determine the appropriate assessment and computation.

37. Upon a thorough examination of the documents presented to the Court and taking into account the arguments put forth by the parties, this Court is of the opinion that the respondent authorities had reasonable grounds to suspect that the gold ornaments being transported by the petitioner’s employees were not properly accounted for in the company’s records. Credible information was received from the Post Commander of the Railway Protection Force (RPF), Ranchi, which raised justifiable concerns regarding the nature of the jewellery being carried without the requisite documentation. The absence of crucial records, such as a bill book or alternative means for generating cash memos, gave rise to substantial suspicion regarding the legitimacy of the goods in transit. The respondent authorities, therefore, acted within the scope of their legal mandate and had valid grounds to believe that the jewellery might have been unlawfully transported or unaccounted for, justifying the seizure.

38. Furthermore, the initial seizure of the jewellery was conducted by the authority under Sections 131 and 132 of the said Act. The respondents, after a detailed inquiry, discovered several discrepancies in the petitioner's documentation. The detained employees were unable to provide satisfactory explanations for the absence of stock registers and other essential records. Furthermore, the discrepancies in the weight of the seized jewellery, as compared to the petitioner's claimed quantity, further substantiated the belief that the goods were not accurately reflected in the petitioner's books. In exercising their powers in good faith and within the scope of their legal authority, the respondent authorities acted justifiably in seizing the jewellery at that time.

39. Despite being afforded ample opportunity to reconcile the seized jewellery with its official records, the petitioner failed to do so. The petitioner's representative, one Ms. Varda Goenka, was unable to provide sufficient evidence to substantiate that the jewellery was a part of the petitioner's legitimate stock-in-trade. The absence of stock registers and the significant discrepancies in the weight of the jewellery raised further concerns. The delay in submitting crucial documents, including a late email submission, only added to the justification for the seizure. The irregularities in the petitioner's documentation warranted the respondent authorities' continued possession of the jewellery.

40. The investigation was transferred to the appropriate jurisdiction as authorized under the said Act and the respondent authorities acted within their legal rights in continuing the investigation. The petitioner's failure to satisfactorily reconcile the seized jewellery with its books of accounts, along with the substantial discrepancies in the weight of the gold, justified the ongoing investigation. Consequently, the seizure of the jewellery remains valid as part of an investigation into potential non-compliance under the said Act.

41. For the foregoing reasons, given the petitioner's failure to substantiate the legitimacy of the jewellery, the discrepancies in documentation and weight and the reasonable belief of the respondent authorities in potential wrongdoing, the seizure of the jewellery is found to be valid and in compliance with the provisions of said Act. The actions of the respondent authorities were undertaken within their jurisdictional powers and in good faith.

42. All pending applications are accordingly disposed of.

43. There shall be no order as to costs.

44. Urgent Photostat certified copies of this judgment, if applied for, be supplied to the parties upon fulfilment of requisite formalities.

(RAJARSHI BHARADWAJ, J)

Kolkata

07.04.2025

PA (BS)