IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

BEFORE:
HON'BLE JUSTICE RAJA BASU CHOWDHURY

WPO/114/2025

LITON KARMAKAR
Versus
UNION OF INDIA AND ORS

For the Petitioner	:	Mr. Nilotpal Chowdhury, Adv.
For the Customs Authority	:	Mr. Kaushik Dey, Adv. Mr. Kaustav Kanti Maiti, Adv.
For the UOI	:	Mr.Smarajit Roychowdhury, Adv. Ms. Rama Chakraborty, Adv.
Heard on	:	29.08.2025
Judgment on	**:**	**29th August, 2025**.

RAJA BASU CHOWDHURY, J (ORAL):

1. The present writ petition has been filed, inter-alia, praying for direction upon the respondents (Customs Authority) to immediately release the seized goods along with consequential benefit in favour of the petitioner in terms of the order in appeal dated 8th November, 2024. The petitioner claims that he owns a shop at 206, B.B. Ganguly Street, Bowbazar, Kolkata – 700012. The records would reveal that on 28th March, 2019 two full size gold bars and one cut piece gold bar weighing approximately 2755.200 gms. and valued at approximately Rs. 89,87,462/- were seized from the petitioner's aforesaid shop room which the petitioner claims to be the workshop and office premises.

2. Following the aforesaid seizure, a show cause notice dated 25th October, 2019 was issued by the Learned Additional Commissioner of Customs. The same ultimately culminated in the order in original dated 30th March, 2022. Being aggrieved the petitioner had filed an appeal before the Commissioner of Customs (Appeals), the same came to be rejected on the ground of limitation vide order dated 14th March, 2023. Being aggrieved, the petitioner had filed an appeal before the Customs, Excise and Service Tax Appellate Tribunal (CESTAT). The CESTAT by order dated 19th October, 2023 had remanded the matter back to the adjudicating authority by taking note of the fact that the adjudicating authority had not given personal hearing to the appellants. Following the above, by a de-novo order dated 31st March, 2024 the proceeding initiated against the petitioner by the show cause notice dated 25th October, 2019 with regard to seizure of gold of 2755.200 gms. was dropped.

3. Although, the Customs Authority had preferred an appeal before the Commissioner of Customs, the said appeal from the order in original dated 31st March, 2024 was rejected by observing that appellate authority did not find any reason to interfere with the impugned order.

4. Challenging the above order though an appeal was filed before the CESTAT, the Customs Authority could not obtain a favourable order of stay. In the interregnum, however, since the appeal was pending for some time, the above writ petition was filed and this matter was taken up for consideration when the learned advocate representing the

Customs Authority had submitted that steps were being taken to move the tribunal for obtaining appropriate order. It is on such ground that the matter was adjourned from time to time. Now, that in the pending appeal the stay has been refused, I am of the view that no fruitful purpose will be served by keeping the writ petition pending especially when the gold bars have already been examined by C.R.C.L. and the report is admitted by the parties.

5. Accordingly, I propose to dispose of the petition by passing the following order. I direct the Customs Authority to execute the de-novo order dated 31st March, 2024 whereby the proceeding in respect of the show cause dated 25th October, 2019 was dropped with the further direction to consider the petitioner's representation/letter dated 6th November, 2024 for return of the seized goods within a month from date.

6. The seized goods shall however be released subject to the petitioner executing an indemnity bond for the sum of Rs. 89,87,462/- to the satisfaction of the Customs Authority. In this context, I may note that though Mr. Chowdhury by relying on an unreported judgment dated 21st November, 2024 passed in the case of ***M/s. Ballans Agro Food Processing Pvt. Ltd. and Anr. v. Union of India and Ors.,*** in WPO/671/2024 submits that in similar set of facts, a Coordinate Bench of this Hon'ble Court had directed release of goods without any security, I am of the view that having regard to the facts noted hereinabove and considering the fact that appeal is still pending, it is necessary to issue the aforesaid direction.

7. It is made clear that within 24 hours upon the execution of the bond by the petitioner, the goods shall be released as directed above.

8. Thus, WPO/114/2025 is disposed off.

9. There shall be no order as to costs.

10. Urgent photostat certified copy of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(RAJA BASU CHOWDHURY, J.)

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