IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6638 OF 2025

H. K. Jewels Pvt Ltd & Anr .. Petitioners

Versus

The Assistant Director of Income
Tax Investigation & Ors .. Respondents

Mr. Devendara Jain, *with Mr. Shashank Mehta,Saukhya Lakade, Advocates for the Petitioners.*

Mr. Pritish Chatterji, *Advocates for Respondent No.3/Revenue.*

Ms. Laxmipriya Upadhyaya *(Officer appeared through VC).*

CORAM: B. P. COLABAWALLA &
AMIT S. JAMSANDEKAR, JJ.
DATE: NOVEMBER 11, 2025

P. C.

1. Rule. Respondents waive service. With the consent of the parties, Rule made returnable forthwith and heard finally.

2. The above Writ Petition is filed seeking to quash (i) the order dated 14th March 2025; and (ii) the impugned Panchanama dated 1st June 2024. Additionally, a declaration is sought that the impugned search action undertaken by the Income Tax Department is illegal and without jurisdiction

and direct the Respondents to forthwith release the gold jewellery seized during the said search.

3. Petitioner No.1 is a private limited company engaged in trading, manufacturing, and importing and exporting gold, silver, platinum and other precious metals. It also trades/deals outside Maharashtra. The Petitioner is also a registered dealer under the Goods and Service Tax Law ("***GST Law***"). According to Petitioner No.1, though it does not have its own branch/office/shop in Bhubaneshwar, Odhisa, it transacts with various customers in said region in the following manner:-

(a) Petitioner No.1 sends its products to Bhubaneshwar via a secured courier.

(b) Parallelly, the sales executive of the Petitioner No.1 visits Bhubaneshwar.

(c) The said sales executive then collects the products from the courier company and then goes from shop to shop in the market of Bhubaneshwar.

(d) The interested customer retains their desired products for final confirmation.

(e) The balance products are shipped by the sales executive back to Mumbai via the courier company.

(f) After receipt of the balance products in Mumbai, Petitioner No.1 reconciles it with the stock movement (outward/sales/inward). If the same is in order, then Petitioner No.1 finalizes the invoice for the goods sold.”

4. During the first week of May, 2024, Petitioner No.1 had sent the following gold jewellery to Bhubaneshwar :

Date	*Net Weight (gms)*
03.05.2024	*6218.18*
07.05.2024	*1912.82*
09.05.2024	*1229.88*
Total	*9360.88*

5. Thereafter, Petitioner No.2 (the employee of Petitioner No.1) left from Mumbai to visit Bhuwaneshwar. Petitioner No.2 collected the said gold jewellery from the courier company and started to exhibit the same before the customers in Bhubaneshwar. Out of the total gold, Petitioner No.2 sold and handed over 1622.08 gms of gold to its customers in Bhubaneshwar, namely, *Hansraj Jewellers, Subhadra Jewellers, Radhagobinda Jewellers, Rithvika Gold Pvt Ltd, S. D. Jewellers and Saraswati Alankar*. Thereafter, Petitioner No.2 left with 7738.80 gms of the balance gold which was to be shipped back to Mumbai. The said balance gold jewellery was put in transit through a courier company via air-transit. However, on 12th May 2024, the

officials of the Income Tax Department intercepted the said balance gold jewellery at Bhubaneshwar Airport and took in their custody the said balance gold of 7738.80 gms.

6. According to the Petitioners, the Respondents did not provide/issue any order/notice/communication in respect of the said gold jewellery taken in their custody. Thereafter, on 15th May 2024, the Deputy Director of Income Tax (Inv), Unit 1 (2), Bhubaneshwar, recorded the statement of Mr. Rudra Nanda (one of the employees of Petitioner No.1) under Section 131 (1A) of the I. T. Act, and asked several details about the business of Petitioner No.1 and the gold jewellery which they had taken in their custody. A similar statement under Section 131 (1A) was also recorded on 16th May 2024 of another employee Mr. Sanjay Korgaonkar as well as that of Petitioner No.2. Further statements of one of the Directors of Rithvika Gold Pvt Ltd (a customer of Petitioner No.1), as well as further statements of Petitioner No.2 were thereafter also recorded as more particularly set out in the Writ Petition.

7. What is important to note is that on 30th May 2024 and 1st June 2024, Respondent No.1 again recorded the statements of Petitioner No.2 under Section 131 and asked several details about the business of Petitioner

No.1 and the gold jewellery which they had taken in their custody. It appears that on 1st June 2024, when Petitioner No.2 was called at the office of Respondent No.2 (for the purpose of recording the statement), a Panchanama was drawn wherein it was inter alia stated that the said gold jewellery inventory weighting 7748.74 gms were seized. This is despite the fact that the seized gold jewellery was already in the custody of Respondent No.1 since 12th May 2024.

8. Be that as it may, vide letter dated 10th July 2024, Petitioner No.1 through Mr. Sanjay Korgaonkar, made a detailed submission explaining the entire *modus operandi* of the business of Petitioner No.1 and the role of Petitioner No.2 and the details of the seized gold inventory. Similarly, vide letter dated 11th July 2024, Petitioner No.2 also made a detailed submission explaining the entire *modus operandi* of the business of Petitioner No.1. To substantiate the averments and the explanations given in the aforesaid two letters, Petitioner Nos. 1 and 2 also enclosed several documents, the details of which have been set out in paragraph 4.15 of the Petition.

9. The Petitioners then filed Writ Petition No.12902 of 2024 before this Court challenging the actions of the Respondents who had illegally kept the stock-in-trade of Petitioner No.1 in their custody. This Writ Petition was

finally disposed of by order dated 24th February 2025 wherein this Court allowed the Petitioner to raise their objections relating to release of its seized stock-in-trade before the concerned Respondents. Accordingly, the Petitioners made an application for release of its stock-in-trade of gold on 28th February 2025. However, this application was rejected by Respondent No.3 vide his order dated 14th March 2025 inter alia holding that the seized gold were unaccounted assets emanating from Petitioner No.1 and was not liable to be released. This is how the present Petition is before us.

10. In the present Petition, though several grounds have been raised in relation to the fact that the gold jewellery seized by the Income Tax Department is the stock-in-trade of the Petitioner, and therefore, under the proviso to Section 132(1)(B)(iii), the jewellery being the stock-in-trade of the business, could not have been seized, and only a note of inventory could have been made in relation thereto, the Petitioner also assailed the fact that in the present case though the gold jewellery of Petitioner No.1 was taken into custody on 12th May 2024, and which is corroborated by the evidence on record, a Panchanama was drawn only on 1st June 2024 and that too in the office of the Income Tax Department. This makes the entire action of the Income Tax Department illegal and bad in law.

11. From the record we find that though the search was conducted on 12th May 2024 and custody of the gold jewellery was taken on the said date, the Panchanama suggests that the search commenced on 1st June 2024 at 6.15 pm and the proceedings were closed on the same date at 8.30 p.m. This recording in the Panchanama clearly appears to be incorrect. We say this because when the statement of Mr. Sanjay Korgaonkar was recorded under Section 131 (1A) on 16th May 2024, the Income Tax Department itself admitted that on 12th May 2024, gold of 7738.74 gms belonging to Petitioner No.1 has been kept in the custody of the Income Tax Department on failure to produce any supporting documents. This was in the form of a question put to Mr. Sanjay Korgaonkar. For the sake of convenience, the said question and answer is reproduced hereunder:-

> ***"Q.9:<u>This is to bring your notice that on 12/05/2024, gold of 7738.74 gms belonging to HKJPL has been kept in the custody of the Income Tax department for failure to produce any supporting documents</u> in favor of movement of this amount of the gold back to Mumbai after the same has been distributed in Bhubaneswar to various retail Jewellers by HKJPL in associate with its Employee Mr. Jugal Soni. Please comment and the state the reason for the same.***
>
> *Ans. Sir, I wish to state that Mr. Jugal Soni might not have had all the documentary evidences that you have called for during gold movement to Mumbai. Sir, I wish to state that on 03/05/2024, 6327.41 gms of Gold has been moved from Mumbai to Bhubaneswar. Further on 07/05/24, 1912.82 gms of Gold has been moved from Mumbai to Bhubaneswar.*

> *Also, on 11/05/24, 1230.68 gms of Gold has been moved from Mumbai to Bhubaneswar. The above is the gross weight of the entire movement of gold in the month of May to Bhubaneswar from H.K.Jewels Pvt. Ltd, Mumbai. I am producing you the delivery challan of the same as per* ***Annexure B.*** *However, I cannot produce the delivery challans to Odisha based retail parties.*

12. Question 12 also once again admits that the gold jewellery is in the custody of the Income Tax Department.

> ***Q.12: Please provide the names of parties in Bhubaneswar for whom the above-mentioned gold of 1622.08 gms is sold in the month of May till the date of gold moved to custody of department.***
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> *Ans. Sir, the names of the parties for home the above-mentioned gold of 1622.08 gms is sold in the month of May is Shivani Agencies, Hansaraj Jewellers, Radha Gobinda Jewellery, Saraswati Alankar, Subhadra, SS Jewellers. I am making a excel of the same of delivery of gold to various parties in Bhubaneswar as last page in* ***Annexure-C*** *(Annexure-C being the ledgers of individual parties) reflecting the quantum. However, this excel is only made for our internal reference and is not entered in Tally books as stock delivered to local parties in Bhubaneswar and can be tallied only after payments are received from retailers.*

13. Apart from this, the valuation of the seized gold was done by the Income Tax Department on 17th May 2024 as evidenced by page 97 of the paper book. Yet, the Panchanama dated 1st June 2024 records that the search commenced on 1st June 2024 at 6.15 p.m. and was concluded on the same date at 8.30 p.m. In other words, the Panchnama seems to suggest that the gold was seized on 1st June 2024.

14. From the record, it appears that no reliance can be placed on the Panchanama in light of what we have stated hereinabove. From what is stated hereinabove, it is clear that the gold jewellery was in the custody of the Income Tax Department long before the Panchanama was prepared.

15. We must mention that in view of the aforesaid inconsistencies, we, by our order dated 9th September 2025, directed the Income Tax Department to file an additional affidavit explaining the aforesaid inconsistencies. Pursuant to our directions, Respondent No.1 has filed an affidavit dated 26th September 2025. We have gone through the aforesaid affidavit and find no real explanation for the same. Though it is a lengthy affidavit, the crux of the affidavit is that the interception of the Gold Jewellery happened on 12th May 2024 at Bhubaneshwar, and hence, the said Jewellery was discovered on 12th May 2024 and not seized by the Department on the said date.

16. We fail to understand how such a statement can be made in the affidavit when the record clearly indicates that the Gold Jewellery was in fact in the custody of the Income Tax Department as far back as on 12th May 2024, and in fact the valuation of the same was also done by them on 17th May

2024. Hence, the so-called explanation given in the affidavit dated 26th September, 2025 is not only acceptable but contrary to the record. This apart, we find from the evidence on record that in fact this jewellery was the stock-in-trade of the Petitioner. The Petitioner has in fact produced ample evidence to show that it was the stock-in-trade of the Petitioner. Once this is the case, we find that the entire action taken by the Respondent Authorities is contrary to law.

17. We, accordingly, hereby quash the order dated 14th March 2025 and the impugned Panchanama dated 1st June 2024. We also direct the Respondents to forthwith release the said seized gold jewellery of 7738.80 gms to Petitioner No.1 within a period of two weeks from the date of uploading of this order on the High Court website.

18. We must clarify that this order should not be understood to mean that we have given a clean-chit to the Petitioners, and the Income Tax Authorities, if they are of the opinion that the aforesaid gold ought to be brought to tax, they are free to do so in accordance with law.

19. Rule is made absolute in the aforesaid terms, and the Writ Petition is also disposed of in terms thereof. However, there shall be no order as to costs.

20. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[AMIT S. JAMSANDEKAR, J.] **[B. P. COLABAWALLA, J.]**