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* **IN THEHIGH COURTOF DELHIAT NEW DELHI**

\+ **W.P.(C) 4077/2025**

GOR SHARIAN .....Petitioner

Through: Mr. S. Vijay Kanth and Mr. Utkarsh Tripathi, Advs.

versus

THE COMMISSIONER OF CUSTOMS .....Respondent

Through: Mr. Gibran Naushad, Senior Standing Counsel with Mr. Harsh Singhal & Mr. Suraj Shekhar Singh, Advs.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

O R D E R

% 19.05.2025

1. This hearing has been done through hybrid mode.

2. The present petition has been filed under Article 226 of the Constitution of India seeking implementation of the judgment dated 14th February, 2025 passed by this Court in ***W.P.(C) 1807/2025*** between the same parties.

3. The said writ petition had been filed, *inter alia*, challenging the Refund Order No. 13/2024-25 dated 3rd October, 2024 and corrigendum dated 16th January, 2025 to the said refund order, passed by the Assistant Commissioner (Refund), IGI Airport, New Delhi. The relevant paragraphs of the said judgement read as under:

> *"16. In the opinion of this Court, this course of action would be completely contrary to law inasmuch as the Order-in-Appeal had clearly directed the release and re-*

export of the detained gold, subject to payment of redemption fine and penalty. The said order could not have been ignored by the Customs Department. Even if there was a lack of communication, the fact of disposal of the detained gold ought to have been communicated to the Court, when the W.P. (C) No. 6690/2023 was being heard and the final order therein was passed on 20th July, 2023.

17. The disposal of the detained gold without intimation to the Petitioner is also contrary to law. Clause 3.1.2 of the Circular dated 6th September, 2022 would, therefore, have no application in the present case. The entire process followed by the Customs Department for the disposal of the detained gold, collecting the redemption fine and penalty as also deducting customs duty before payment of the value of the detained gold to the Petitioner would, therefore, not be tenable.

18. The Petitioner having succeeded in appeal before the Commissioner of Customs (Appeals) and the Customs Department having not challenged the Order-in-Appeal, the Petitioner cannot be made worse off at this stage.

*19. **Under these circumstances, this Court is of the opinion that the Petitioner is entitled to the entire value of the detained gold as on the market rate prevalent today, which would be liable to be paid by the Customs Department within a period of three weeks. If the said amount is not paid within three weeks, costs of Rs.1,00,000/- would be liable to be paid by the Customs Department to the Petitioner.***

20. It is made clear that no duty would be liable to be deducted from the said payment of the value of the detained gold as the Petitioner has already deposited the redemption fine and penalty in terms of the Order-in-Appeal.

21. The said amount shall be credited to the Petitioner's bank account directly. The Petitioner shall provide his bank details to the official concerned from his registered Email:- gorhitman@mail.ru. Mr. Gibran Naushad, ld. Senior Standing Counsel shall ensure that the Petitioner speaks to the official concerned before the remittance is paid.

22. In addition, the Customs Department shall ensure in future that the intimation of disposal of detained or confiscated property is given to the concerned party both via email as also the mobile number, so that the said party who has succeeded in Court or Tribunal against the detention of the property, are not deprived of their properties, as has happened in the present case.

23. Registry is directed to communicate this order to the OSD (Legal), Central Board of Indirect Taxes & Customs (hereinafter "CBIC") through email (Osd- legal@gov.in) for necessary information and compliance. Let Mr. Gibran Naushad, ld. Senior Standing Counsel, also communicate this order to the OSD (Legal), CBIC for necessary information and compliance.

24. In view of the above, the writ petition is disposed of. Pending applications, if any, are also disposed of."

4. The Court is informed that the Customs Department had preferred a SLP against the said judgement being ***SLP No. 10725/2025*** titled ***Commissioner of Customs vs Gor Sharian*** and the same has been dismissed by the Supreme Court on 5th May, 2025. Thereafter, the Refund Order No. 4/2025-26 dated 14th May, 2025 has also been passed and a total amount of Rs. 63,01,747/- has been directed to be refunded. This is in addition to Rs. 29,48,646/- which had been refunded to the Petitioner *vide* Refund Order

no.13/2024-25 dated 3rd October, 2024. Further, a cost of Rs. 1,00,000/- has also been sanctioned in favour of the Petitioner *vide* letter dated 14th May, 2025 issued by the Chief Accounts Officer, IGI Airport, New Delhi. The relevant portion of the Refund Order No. 4/2025-2 read as under:

> *"19. I find that the department has filed A Special Leave Petition (SLP) bearing no. 10725/2025, titled as; Commissioner of Customs vs Gor Sharian was filed by this office against the judgement of the Hon'ble High Court of Delhi in W P (C) 1807/2025. The said SLP was listed on 28.04.2025 and the same was dismissed. The Hon'ble Supreme Court, while dismissing the said SLP held:-*
> *" Heard the learned Additional Solicitor General appearing for the petitioner.*
> *On facts, no case for interference is made out in exercise of our jurisdiction under Article 136 of the Constitution of India. The Special Leave Petition is accordingly dismissed."*
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> *20. The market value of the gold as per rate mentioned on the website of "The Economic Times' dated 14.02.2025 is 8685 per gram. Therefore, the refund calculation as per the Hon'ble High Court Order is reflected in the table below:*

A	*Market value of 1065.10 grams of as on High Court's Order date i.e. 14.02.2025 at rate of Rs.8685/- per gram)*	*Rs. 92,50,393/-*
B	*Amount refunded vide Refund Order No. 13/2024-25 dated 03.10.2024 and corrigendum to Refund order No 13/2024-25 dated 16.01.2025*	*Rs. 29,48,646/-*
C	*Refundable Amount [C=A-B]*	*Rs.63,01,747/-*

> *Therefore, an amount of Rs.63,01,747/- (Rupees Sixty Three Lakh One Thousand Seven Hundred Forty Seven Only) is admissible refund to the applicant as per the direction of High Court vide Order dated 14.02.2025. Accordingly, I pass the following order:-*

ORDER

> *In view of the above, I sanction the refund of* ***Rs.63,01,747/- (Rupees Sixty Three Lakh One Thousand Seven Hundred Forty Seven Only)*** *to the Applicant and order to pay the amount of* ***Rs.63,01,747/- (Rupees Sixty Three Lakh One Thousand Seven Hundred Forty Seven Only)*** *to the applicant through RTGS in his bank account against Cheque No.604900 dated 13.05.2025 issued to PNB, Sansad Marg, New Delhi."*

5. The Refund Order No. 4/2025-2 and the letter dated 14th May, 2025 have been handed over by Mr. Gibran Naushad, ld. SSC and the same are taken on record.

6. The ld. Counsel for the Petitioner has confirmed that the Petitioner has received both the amounts as mentioned above. In view thereof, nothing further survives in this writ petition.

7. Accordingly, the present petition is disposed of. Pending application(s), if any, also stand disposed of.

PRATHIBA M. SINGH, J.

RAJNEESH KUMAR GUPTA, J.

MAY 19, 2025/*nd/msh*