

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
(Original Side)

Reserved on : 29.01.2026.

Pronounced on : 10.02.2026

APO 103 OF 2025

With

IA No. GA 1 of 2025

NAIM ALI MALLICK ALIAS NAIM ALI MULLICK

...Appellant

-Vs-

*THE PRINCIPAL COMMISSIONER OF CUSTOMS
(PREVENTIVE) & ORS.*

...Respondents

Present:-

*Mr. Sukanta Chakraborty, Adv.
Mr. Abdul Hamid Molla, Adv.
Md. Abdul Halim, Adv.
Mr. Sahil Hamid, Adv.
Mr. Biswasdeep Dey, Adv.*

...for the appellant

*Mr. Uday Sankar Bhattacharyya, Adv.
Mr. K.K. Maity, Adv.*

..... for the respondents

Coram: THE HON'BLE JUSTICE RAJARSHI BHARADWAJ,
And
THE HON'BLE JUSTICE UDAY KUMAR

Rajarshi Bharadwaj, J:

1. This intra-court appeal by the writ petitioner is directed against the order dated 4th December 2025 passed by the Hon'ble Justice OM Narayan Rai in W.P.O. No. 496 of 2025, whereby the writ petition challenging the seizure of gold pieces (approx. 154.800 grams) and cash (Rs.19,77,500) under Section 110 of the Customs Act, 1962, was dismissed.

2. The facts in a nutshell are that the appellant is the Chief Staff at HALLMARK Assay Centre (operating as M/s. Chennai Touch), located at Village Sripatipur, P.O. Sheakhala, P.S. Chanditala, Hooghly, with a valid trade license from Sripatipur Ilipur Gram Panchayat. The establishment tests gold purity and trades in old gold ornaments. On 18th January 2024, at around 10:00 a.m., Customs officials entered the appellant's premises at HALLMARK Assay Center in Sripatipur, Sheakhala, Hooghly, seized two gold pieces weighing approximately 154.80 grams (lacking foreign markings and thus claimed to be of Indian origin) along with Rs.19,77,500/- in cash, transported the items to the Customs House on Strand Road, Kolkata, where a Panchnama was prepared, briefly detained the appellant and recorded his statement under alleged duress. Subsequently, a Show-Cause Notice dated 15th July 2024 was issued which was received by the appellant on 7th August 2024. Such Show-Cause notice was issued following a purported extension of the six-month period under Section 110(2) of the Customs Act, 1962, granted on 10th July 2024 by the Superintendent of Customs. Thereafter, the appellant lodged an FIR alleging forgery of extension documents. The Single Judge, after interim orders on 7th August, 12th November and 26th November 2025, along with review of affidavits and records, upheld the proceedings vide the impugned order.

3. The Learned Counsel for the appellant assails the impugned order on multiple fronts. Primarily, it is contended that the extension letter dated 10th July 2024 purportedly issued by the Superintendent rather than the Commissioner stands forged or tampered with, as evidenced by a mismatched

logo, anomalous signature placement and the appellant's verifiable absence from Customs House (corroborated by mobile tower data). It is further alleged that blank papers were signed by the appellant under duress on 18th January 2024 and subsequently misused. Strong reliance is placed on the proviso to Section 110(2), which mandates that reasons in writing be recorded solely by the Commissioner and communicated to the owner before expiry and that the subordinate officers lack such authority, as affirmed in ***I.J. Rao v. Bibhuti Bhushan Bagh (1989)*** and ***Harbans Lal v. Collector (1993)***. It is further submitted that the Single Judge erred in accepting these documents without forensic verification from the Central Forensic Science Laboratory, Kolkata, while disregarding the affidavit-in-opposition, the anomalous sequence of SCN dispatch (post-dating six months) and the respondents' failure to produce e-office records. Notably, no summons under Section 108 was issued or responded to, undermining any justification for extension. Therefore, the appellant seeks for the quashing of the seizure, immediate release of goods and directed probes into forensic and mobile data evidence.

4. Learned Counsel for the Customs authorities herein the revenue defended the impugned order, submitting that the Commissioner approved the extension on 10th July 2024 with recorded reasons such as investigation needs, with intimation to the appellant in form of an acknowledged receipt. It is submitted that the Show Cause Notice was validly issued within the extended period approved by the Commissioner of Customs for ongoing investigation needs, with due intimation to the appellant whose receipt was duly acknowledged, rendering allegations of forgery or duress unsubstantiated as no timely prior complaint regarding blank signatures had been raised. The Single Judge rightly scrutinized the annexures, finding no evidence of tampering in the CBIC logo, endorsement or receipt, while production of case records had been offered pursuant to interim orders. However, the appellant's non-cooperation justified the extension. Further, the seizure under Section 110(1) was lawful owing to suspected

smuggling, with merits pending statutory adjudication, making forensic or mobile tower probes premature absent prima facie evidence, such that the writ court correctly deferred to the ongoing proceedings.

5. Having heard the Learned Counsel for the parties and perused the records this Court is of the opinion that the core dispute hinges on Section 110(2)'s procedural compliance for extension and seizure validity issues essentially factual, involving document authenticity, timelines and investigation sufficiency. While the appellant raises serious allegations of tampering and authority excess, these cannot be conclusively resolved in writ jurisdiction without a full fact-finding inquiry. The Single Judge appropriately noted no "apparent reason to doubt" genuineness post-affidavit review but refrained from final merits, as SCN proceedings remain pending.

6. The Adjudicating Authority under the Customs Act serves as the designated fact-finding body and any interference by this Court at the interlocutory stage prior to completion of adjudication would amount to usurping its statutory role. The appellant has failed to demonstrate irreparable injury sufficient to warrant immediate release of the seized goods, whose claimed Indian origin remains contestable pending investigation. Similarly, claims for forensic examination and mobile tower verification, while meriting scrutiny, properly fall within the domain of the Adjudicating Authority rather than writ proceedings.

7. For the foregoing reasons, the appeal is disposed of with following directions:

In order to balance equities, the Adjudicating Authority shall expedite the Show-Cause Notice proceedings, affording the appellant opportunity to provide for evidence on forgery and procedural compliance claims and conclude adjudication within three (03) months from today, with reasoned order and notice to parties. The status quo on seized assets shall hold,

subject to remedies as mentioned under Section 110A of the Income Tax Act, 1961.

- 8.** There shall be no order as to costs.
- 9.** Pending application i.e. GA 1 of 2025 is accordingly disposed of.
- 10.** Urgent certified copy, if applied for, be supplied upon compliance with requisite formalities.

(RAJARSHI BHARADWAJ, J)

(UDAY KUMAR , J)

Kolkata

10.02.2026