IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-02-2026

CORAM

THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

WP No. 25828 of 2024
AND
WMP NO. 28195 OF 2024

V.Ramesh,
46/11,Venkatesapalayam,
Kanchipuram -631 501.

Petitioner(s)

Vs

1.Joint Commissioner Of Customs,
(ADJUDICATION-AIR),
Customs-Airport-Commissionerate-Chennai,
Meenambakkam, Chennai -600 027.

2.Commissioner of Customs (Appeals-I)
3rd Floor New Custom House,
GST Road, Meenambakkam, Chennai – 600 016.

Respondent(s)

[2nd respondent *suo mottu* impleaded
by order dated 06.02.2026 in
W.P.No.25828 of 2024 by AQJ]

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, calling for the entire records relating to the impugned order in Denovo Order in Original No. 188/2024-25-Commissionerate-I dated 26.06.2024 passed by the respondent and quash the same.

For Petitioner(s): Mr.T.Ramesh

For Respondent(s): Mr.M.Santhanaraman
Senior Standing Counsel

ORDER

This writ petition has been filed challenging the impugned Order-in-Original dated 26.06.2024, wherein the 1st respondent ordered absolute confiscation of the seized gold under Section 111 (i) and (j) of the Customs Act, 1962 r/w Section 3(3) of the Foreign Trade (Development & Regulation Act, 1992 and also imposing a penalty of Rs.10 Lakhs on the petitioner under Section 112 (a) & (b) of the Customs Act, 1962.

2.The petitioner has challenged the impugned Order-in-Original on the ground of violation of principles of natural justice. According to the petitioner, despite a specific request having been made by the petitioner to cross examine Shri M.N.M.Akmal, who was the transit passenger from whom the petitioner is set to have received the gold which has been confiscated, the said request was not considered favourably by the 1st respondent under the impugned order. According to the petitioner, the right of cross examination is mandatory. The petitioner has also relied on the order passed by the Commissioner of Customs (Appeals-I) in the earlier round of challenge, wherein the petitioner had challenged the earlier Order-in-Original dated 20.11.2023 passed against him by the 1st respondent with regard to the same matter. In the said order, the

Commissioner of Customs (Appeals-I) remanded the matter back to the 1st respondent for fresh consideration on merits and in accordance with law, by adhering to the principles of natural justice. Despite a specific direction having been given by the Commissioner of Customs (Appeals-I) in the earlier round of challenge, the right of cross examination sought for by the petitioner to cross examine Shri. M.N.M. Akmal has been rejected under the impugned order.

3.A counter has been filed by the 1st respondent reiterating the contents of the impugned Order-in-Original. The 1st respondent contends that only based on preponderance of possibility, the impugned Order-in-Original came to be passed against the petitioner. The petitioner was also granted sufficient opportunity in the impugned proceedings and therefore, there is no violation of principles of natural justice. The respondents also contend that the petitioner cannot claim as a matter of right to cross examine the witnesses. Since the petitioner's request was considered in the impugned order, the question of violation of principles of natural justice does not arises.

4.Admittedly, earlier the petitioner had chosen to file an appeal as against the earlier Order-in-Original passed against the petitioner with regard to the same matter. The said appeal was also disposed of by the Commissioner of Customs (Appeals-I) by remanding the matter back to the 1st respondent for fresh consideration on merits and in accordance with law, by adhering to the principles of natural justice. The very same ground was raised by the petitioner in the earlier round viz., the failure on the part of the 1st respondent to grant permission to cross examine the witness namely Shri.M.N.M.Akmal, who had kept the gold in the toilet located in the transit area in the Airport from where the petitioner is alleged to have removed.

5.The Commissioner of Customs (Appeals-I) in the earlier round of challenge had considered the plea of the petitioner and remanded the matter back to the 1st respondent for fresh consideration on the ground of violation of principles of natural justice and also on the ground that there is a typographical error in the impugned-Order-in-Original passed earlier. The Commissioner of Customs (Appeals-I) in the earlier round had also remanded the matter since the earlier Order-in-Original was a non-speaking order.

6.When the petitioner had chosen to file an appeal before the Commissioner of Customs (Appeals-I) as against the earlier Order-in-Original passed against the petitioner pertaining to the very same matter, this Court is of the considered view that necessarily the petitioner will have to file a statutory appeal before the Commissioner of Customs (Appeals-I) if the petitioner is aggrieved by the impugned Order-in-Original, as was done by him earlier. The petitioner cannot now file a writ petition before this Court, having chosen to file an appeal earlier.

7.For the reasons best known to the petitioner, the petitioner has filed this writ petition instead of filing the statutory appeal before the Commissioner of Customs (Appeals-I). When this Court expressed its view that necessarily the petitioner will have to file the statutory appeal before the Commissioner of Customs (Appeals-I), learned counsel for the petitioner submits that since the matter is pending for a long time, this Court may direct the Commissioner of Customs (Appeals-I) to dispose of the appeal within a short time once the appeal is filed by the petitioner. Learned counsel for the petitioner also submits that the petitioner is willing to prefer the appeal as against the impugned Order-in-Original within a period of two (2) weeks from the date of receipt of a copy of this order provided a direction is issued to the Commissioner of Customs (Appeals-I), to dispose of the appeal within a period of eight (8) weeks thereafter.

8.Since the Commissioner of Customs (Appeals-I) is not a party respondent in this writ petition, *suo mottu* this Court impleads the Commissioner of Customs (Appeals-I), 3rd Floor New Custom House, GST Road, Meenambakkam, Chennai – 600 016 as the party 2nd respondent in this writ petition. Mr.M.Santhanaraman, learned Senior Standing Counsel accepts notice on behalf of the newly impleaded 2nd respondent as well.

9.For the foregoing reasons, this writ petition is disposed of without expressing any opinion on the merits of the petitioner's contentions before this Court, by directing the petitioner to file the statutory appeal before the newly impleaded 2nd respondent as against the impugned Order-in-Original within a period of two (2) weeks from the date of receipt of a copy of this order. On receipt of the said appeal within the stipulated time as directed by this Court, the 2nd respondent shall entertain the same and treat the appeal to be within the period of limitation and pass final orders on merits and in accordance with law, by adhering to the principles of natural justice within a period of eight (8) weeks thereafter. No costs. Consequently, connected miscellaneous petition is closed.

06-02-2026

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Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

To

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ABDUL QUDDHOSE J.
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