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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 5062/2026, CM APPL. 24814/2026 & CM APPL. 24815/2026

THE COMMISSIONER OF CUSTOMS, (A AND G),
NEW DELHI

.....Petitioner

Through: Mr. Shubham Tyagi, SSC, CBIC with
Ms. Navruti Ojha and Mr. Rishabh
Chauhan, Advs.

versus

NAFEES AHMAD & ANR.

.....Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE

HON'BLE MR. JUSTICE AJAY DIGPAUL

ORDER

16.04.2026

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1. Relying on the invoices, it is the case of the petitioner that the respondent cannot be said to be a *bona fide* passenger who intends to import gold as the same were drawn in the name of third party, and that being so, the respondent could have been tagged as a passenger who intends to smuggle the gold.
2. According to him, the aforesaid issues have not been considered by the Appellate Authority and the Revisional Authority.
3. Our attention is invited to the provisions of Section 128A(iii) of the Customs Act, 1962 so as to claim that the Appellate Authority was armed with the powers to direct further inquiry in the matter of passing of the order in question.



4. That being so, it is urged that the order impugned passed by the Appellate Authority and the Revisional Authority are in contravention to the provisions of Customs Act.
5. When confronted, learned counsel for the petitioner fairly states that the aforesaid issue was never canvassed before the Appellate Authority, nor that a ground to that effect was raised before the Revisional Authority.
6. That being rightly so, both these authorities have not dealt with the issue.
7. Apart from above, once the issue was never canvassed by the petitioner before these authorities, the question of the Appellate Authority taking recourse to Section 128A(iii) of the Customs Act does not fall for consideration, as the Appellate Authority was never suggested to have further inquiry in the matter by the petitioner.
8. Apart from above, the fact remains that there are two orders which are impugned herein and they record concurrent findings against the petitioner thereby directing redemption.
9. That being so, we see no reason to exercise the extraordinary jurisdiction.
10. The petition, as such, along with pending applications, stands dismissed.

NITIN WASUDEO SAMBRE, J

AJAY DIGPAUL, J

APRIL 16, 2026/AS/sg