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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CUSAA 64/2025 & CM APPL. 21106/2025**
PRINCIPAL COMMISSIONER OF CUSTOMS Appellant
Through: Mr. Shivam Gaur, Adv.
versus

KAMAL KANT KULTHIA Respondent
Through: Mr. Anand Mishra, Ms. Vandita Nain,
Ms. Ayushi Rajput & Mr. Devansh
Pundir, Advs.

AND
+ **CUSAA 105/2025**
KAMAL KANT KULTHIA Appellant
Through: Mr. Anand Mishra, Ms. Vandita Nain,
Ms. Ayushi Rajput & Mr. Devansh
Pundir, Advs.

versus

PRINCIPAL COMMISSIONER, CUSTOMS
(PREVENTIVE) Respondent
Through: Mr. Shivam Gaur, Adv.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

ORDER
% **11.08.2025**

1. This hearing has been done through hybrid mode.
2. The present appeals challenge the order dated 27th September, 2024 passed by Customs, Excise and Service Tax Appellate Tribunal (hereinafter “CESTAT”).
3. The case of the Customs Department is that on 6th March, 2014 a total of 10 gold bars (hereinafter “seized goods”) were seized by the Customs Department from one Mr. Dharmener Kumar (hereinafter “the passenger”)



after intercepting him at the Indira Gandhi International Airport, New Delhi. A statement of the passenger was recorded on 7th March, 2014 wherein it is stated that the seized goods had been illegally smuggled into India by the owners of M/s. N.D. Diamonds i.e., Mr. Kamal Kant Kulthia (Appellant in **CUSAA 105/2025**) and one Mr. Manoj Kulthia. Further, the passenger is stated to be the employee of M/s. N.D. Diamonds.

4. Thereafter, a show cause notice was issued on 5th March, 2015 which was decided *vide* Order-in-Original dated 31st March, 2017 whereby absolute confiscation of the seized goods has been ordered. The said Order-in-Original was challenged by Mr. Kamal Kant Kulthia, however, the same was dismissed *vide* Order-in-Appeal dated 6th June, 2019 upholding the Order-in-Original.

5. Mr. Kamal Kant Kulthia, aggrieved by the said Order-in-Appeal challenged the same before the CESTAT. Vide the impugned order out of the 10 gold bars, CESTAT has upheld the order of absolute confiscation in respect of 7 gold bars and released the remaining 3 gold bars. In respect of the released 3 gold bars, the Customs Department is in appeal being **CUSAA 64/2025**. Whereas, in respect of the 7 seized gold bars, the Appellant is in appeal being **CUSAA 105/2025**.

6. The **CUSAA 64/2025** was heard on 9th April, 2025 on which date the Court had issued notice and directed as under:

“6. Issue notice to the Respondent returnable on the next date of hearing.

7. On the next date, the Court would consider whether any substantial question of law arises or not.

8. Since the gold has already been stated to have been disposed of by the Customs Department, there shall be



stay of the impugned order passed by the CESTAT.”

7. In view of the above order, notice was also issued in **CUSAA 105/2025** vide order dated 8th August, 2025.
8. All the parties are represented today by their respective Id. Counsels.
9. Let the counter affidavits in both matters be now filed within a period of six weeks. Rejoinder be filed within a period of four weeks, thereafter.
10. List before the Joint Registrar on 15th September, 2025.
11. List before the Court on 18th November, 2025.

PRATHIBA M. SINGH, J.

SHAIL JAIN, J.

AUGUST 11, 2025

Rahul/msh