

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

CUSTOMS APPEAL NO.51 OF 2009

The Commissioner of Customs (AP), ...Appellant.

v.

Smt. Jayanti S. Jain ...Respondents.

Mr.A.S.Rao with Mr.J.B.Mishra, advs. For the Appellant.

Mr.Uday Warunjikar, adv. For the Respondents.

CORAM : F.I. REBELLO &

J.H. BHATIA, JJ.

DATED : 7th July , 2009

P.C.

1 Admit on the following questions:

“A) Whether on the facts and in the circumstances of the case and in law, the findings and the conclusions of the Tribunal are perverse as they are contrary to the evidence on record ?

“D) Whether the absolute confiscation concurrently ordered by the authorities below can be set aside by the Tribunal, on the basis of xerox copies of the DDR’s especially when neither the originals were produced nor authenticated by the person who paid the customs duty by appearing himself before the authorities below ?”

E) “Whether the Tribunal’s direction to return the gold to the respondent is justified in law, when the respondent on the date of confiscation was not the owner of the

gold ?”

F) “Whether the Tribunal is justified in allowing the appeal by relying upon the documents, which were never placed before the authorities below ?”

2 In so far as the amount released on the sale of goods, invest that amount in a Fixed Deposit in a nationalised bank initially for a period of two years and thereafter for successive periods till the final order of this Court.

3 Respondent waives service.

(J.H. BHATIA,J.)

(F.I. REBELLO,J.)