

(2001) 11 P&H CK 0123

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 3828 of 1999

Siri Bhagwan

APPELLANT

Vs

Collector Customs and Central
Excise and Others

RESPONDENT

Date of Decision: Nov. 19, 2001

Citation: (2002) 79 ECC 156

Hon'ble Judges: Jawahar Lal Gupta, J; Ashutosh Mohunta, J

Bench: Division Bench

Judgement

Jawahar Lal Gupta, J.

The petitioner prays for issue of a writ of mandamus directing the respondent/authorities to "return 600 grams of gold as per the order Annexure P-3 passed by Customs, Excise & Gold (Control) Appellate Tribunal, New Delhi and also to pay damages".

2. The respondents contest the petitioner's claim. They maintain that only 93.300 grams of gold pieces had been taken into possession. It has also been pointed out that the observation in the order of the Tribunal that the order of the Authority directing "confiscation of 600 grams of gold ornaments" is based on a wrong assumption of facts. An application for rectification was filed and has been pending since July, 1999.

3. Counsel for the parties have been heard.

4. The petitioner has not placed on record anything to show that 600 grams of gold ornaments had been actually seized by the respondents. Thus, it is not possible for this Court to give a direction that 600 grams of gold be immediately returned to the petitioner. However, it is the admitted position that gold pieces weighing 93.300 grams are with the respondents. Nothing has been pointed out to show that there was any contravention of the provisions of the Customs Act, 1962 or the Gold (Control) Act, 1968 in so far as these pieces of gold weighing 93.300 grams are

concerned. Thus, we direct that this gold shall be returned to the petitioner. In respect of the remaining gold, the rectification petition filed by the Department is stated to be still pending. Further action shall be taken in the light of the order that may be passed by the Tribunal. Since the matter has remained pending with the Tribunal for the last more than two years, we direct that it should be decided as expeditiously as possible, preferably within three months.

5. The writ petition is disposed of in the above terms. No costs.