

Durga Dass Vs. Union of India (Uoi)

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Court : Rajasthan

Decided On : Nov-07-1988

Reported in : 1990(46)ELT399(Raj)

Judge : M.C. Jain and Milap Chandra Jain, JJ.

Acts : [Customs Act, 1962](#) - Sections 111; Gold (Control) Act, 1968 - Sections 71;
[Constitution of India](#) - Article 226

Appeal No. : D.B. Writ Petition No. 1145/88

Appellant : Durga Dass

Respondent : Union of India (Uoi)

Advocate for Def. : None

Advocate for Pet/Ap. : M.C. Bhoot, Adv.

Disposition : Petition dismissed

Judgement :

M.C. Jain, J.

1. Heard learned Counsel for the petitioner.

2. This petition is directed against the order dated 10-5-1978 (Ex.3) passed by the Deputy Collector, Customs in Central Excise, the appellate order passed by the Collector of Customs, New Delhi dated 23-7-1980 and of the Joint Secretary to the Government of India, dated 12-2-1988 Ex. 9. By the impugned order vide Ex. 3, the Deputy Collector ordered confiscation of nine gold coins weighing one tola each, bearing foreign mark (Pure tazabi gold Karachi) under Section 111 of the [Customs Act, 1962](#) and Section 71 of the Gold (Control) Act, 1968 and further ordered confiscation of four patties of primary gold weighing 40 tolas under Section 71 of the Gold (Control) Act, 1968. These confiscations have been maintained by the appellate authority as well as by the revisional authority.

3. Learned Counsel for the petitioner submitted that the findings with regard to confiscation of nine gold coins is perverse and relevant evidence has not been considered. We are unable to agree with the submission of the learned Counsel. The authorities below have dealt with the evidence and have found that the version taken by the petitioner is an after thought. The finding is based on confession of the petitioner. After weighing the material and evidence on record it has been found that the defence taken by the petitioner is not believable and is an afterthought. In our opinion finding cannot be said to be perverse and is not liable to be interfered with under our extraordinary jurisdiction under Article 226 of the [Constitution of India](#).

4. As regards the confiscation of four patties, suffice it to say that this point has not been agitated before the revisional authority. Counsel for the petitioner submitted that the point was argued before the revisional authority. If that be so, it would be open to the petitioner to approach the revisional authority for seeking review.

5. With the above observations, this writ petition is hereby dismissed.