



2026:DHC:3857-DB



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

Date of decision: 4th May, 2026

+ **W.P.(C) 12711/2025**

HARISH KUMAR
S /O SURJEET SINGH
H. NO. 527/25, PATEL NAGAR, ROHTAK, PIN:124001,
HARYANA, INDIA

.....PETITIONER

Through: Mr. Pawan and Ms. Richa Kumari,
Adv.

versus

COMMISSIONER OF CUSTOMS
(AIRPORT & GENERAL)
T-3, IGI AIRPORT, NEW CUSTOMS HOUSE
NEW DELHI-110037

.....RESPONDENT

Through: Mr. Avijit Dikshit, Standing Counsel
with Ms. Monika Verma, Adv.

CORAM:

HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE
HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)

AJAY DIGPAUL, J.

1. The present writ petition has been filed under Article 226 of the Constitution of India by the petitioner, Harish Kumar, *inter alia*, assailing the detention/seizure of certain gold articles *vide* Detention Receipt No. 3881 dated 26.02.2024 and Detention Receipt No. 15108 dated 18.04.2024,



and seeking setting aside of Order-in-Appeal¹ dated 27.06.2025 passed by the Commissioner of Customs (Appeals), New Delhi. The petitioner also seeks return/release of the detained goods and waiver of warehouse charges. The petitioner is stated to be an Indian citizen holding Passport No. Y8533719 and residing at Rohtak, Haryana.

2. Briefly stated, on 26.02.2024, upon the petitioner's arrival at New Delhi from Bangkok, the Customs authorities detained certain gold articles stated by the petitioner to be used personal jewellery. The articles comprised one gold *kada* weighing 120 grams and one gold ring weighing 8 grams, cumulatively weighing 128 grams. According to the petitioner, these articles were old personal effects worn by him and were also supported by invoices and photographs placed on record. The petitioner further states that he appeared before the concerned authority on 18.04.2024 for release of the goods, whereafter appraisalment was conducted and Detention Receipt No. 15108 was issued after appraisalment.

3. The adjudication proceedings culminated in Order-in-Original² dated 28.06.2024, whereby the adjudicating authority denied free baggage allowance to the petitioner, declared him an ineligible passenger for the purpose of the applicable customs notification read with the Baggage Rules, 2016, and ordered absolute confiscation of the detained goods. The goods were described in the said order as one gold ring in unfinished ring shape having purity 999, weighing 8 grams and valued at ₹46,490/-, and one gold piece in unfinished *kada* shape having purity 999, weighing 120 grams and valued at ₹6,97,345/-, with a total value of ₹7,43,835/-. A penalty of

¹ Hereinafter "OIA"

² Hereinafter "OIO"



₹75,000/- was also imposed upon the petitioner under Section 112 of the Customs Act, 1962³.

4. Aggrieved thereby, the petitioner preferred an appeal before the Commissioner of Customs (Appeals). By the impugned OIA dated 27.06.2025, the appellate authority partly allowed the appeal by modifying the direction of absolute confiscation and permitting redemption/release of the impugned gold articles on payment of redemption fine of ₹75,000/- and applicable customs duty, while upholding the penalty of ₹75,000/- imposed upon the petitioner under Section 112(a) and 112(b) of the Customs Act.

5. During the pendency of the present writ petition, this Court, *vide* order dated 18.12.2025, recorded the submission of the respondent that the Department had filed a revision petition before the Revisional Authority, which was directed to be decided by 31.03.2026.

6. The said revision petition, filed by the Department against the OIA dated 27.06.2025, was thereafter finally decided by the Revisional Authority on 05.03.2026. The revision petition was preferred, *inter alia*, on the ground that the petitioner had committed a Green Channel violation; that he was found carrying the aforementioned gold articles allegedly in commercial quantity; that he had attempted to pass through the Green Channel without declaring the impugned gold either before the proper officer at the Red Channel or before the Customs officers at the Green Channel; and that the said conduct was allegedly with an intent to evade customs duty.

7. The Revisional Authority, after recording the submissions of the Department as well as the petitioner, examined the matter in detail. It noticed that the Commissioner of Customs (Appeals), while passing the

³ Hereinafter “Customs Act”



OIA, had considered the question of redemption of the impugned goods on payment of redemption fine. The Revisional Authority observed that where goods are not subjected to any prohibition, the adjudicating authority is bound to give an option of redemption, and that there is no absolute bar on permitting redemption even in cases involving prohibited goods. It was further observed that the exercise of discretion in such cases would depend upon the nature of the goods and the nature of the prohibition. In this regard, the Revisional Authority also noticed the decision of the Hon'ble Supreme Court in *Union of India & Ors. v. M/s Raj Grow Impex LLP & Ors.*⁴ wherein the conditions and circumstances governing the exercise of such discretion were considered.

8. The Revisional Authority further observed that the Commissioner of Customs (Appeals) in the OIA, had recorded that the petitioner was the owner of the impugned gold; that the impugned gold was not in commercial quantity; that there was no material to show that the petitioner was a habitual offender or had been involved in similar offences earlier; and that there was nothing on record to establish that the petitioner was part of any organised smuggling syndicate. In these circumstances, the Revisional Authority agreed with the view taken by the appellate authority that absolute confiscation of the impugned gold, merely on the ground that gold jewellery of such high purity would fall within the category of primary gold, could not be accepted as a reasonable conclusion. It therefore held that an option to redeem the impugned gold on payment of redemption fine ought to have been allowed. The Revisional Authority accordingly noted that the Commissioner of Customs (Appeals), while exercising discretion under

⁴ 2021 SCC OnLine SC 429



Section 125 of the Customs Act, had rightly permitted release of the impugned gold items on payment of redemption fine of ₹75,000/-.

9. Thus, the OIA dated 27.06.2025, which had modified the order of absolute confiscation and permitted release of the impugned gold articles upon payment of redemption fine of ₹75,000/-, applicable customs duty and penalty of ₹75,000/-, stood affirmed in substance by the Revisional Authority. The Revisional Authority did not find any infirmity in the exercise of discretion by the Commissioner of Customs (Appeals) and accordingly disposed of the revision petition filed by the Department.

10. In view of the aforesaid subsequent development, this Court is of the opinion that no further interference is called for in the present writ petition at this stage. The principal relief sought by the petitioner in the writ petition is for return/release of the seized gold articles. The said relief already stands substantially granted under the OIA dated 27.06.2025, which has also been affirmed by the Revisional Authority *vide* order dated 05.03.2026.

11. Accordingly, the Respondent shall forthwith release the concerned gold articles to the petitioner, subject to the petitioner complying with the conditions stipulated in the OIA dated 27.06.2025, namely payment of the applicable customs duty, redemption fine of ₹75,000/- and penalty of ₹75,000/-, if not already paid.

12. Insofar as the prayer for waiver of warehouse charges is concerned, this Court is of the view that once the Commissioner of Customs (Appeals), by OIA dated 27.06.2025, had permitted redemption and release of the impugned gold articles upon payment of redemption fine, applicable customs duty and penalty, the petitioner ought not to be burdened with warehouse charges for the period thereafter. Accordingly, the prayer for



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waiver of warehouse charges is allowed for the period commencing from 27.06.2025, i.e. the date of passing of the OIA, till the date of actual release of the concerned gold articles to the petitioner.

13. Accordingly, the present writ petition stands disposed of in the aforesaid terms.

14. The respondent shall submit compliance report before this Court within a period of three weeks from today.

**AJAY DIGPAUL
(JUDGE)**

**NITIN WASUDEO SAMBRE
(JUDGE)**

MAY 4, 2026/ar/yr