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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
*Date of Decision: 29<sup>th</sup> May, 2025*

+ **W.P.(C) 5080/2025**  
VAVVO .....Petitioner  
Through: Mr. Aditya Raj, Mr. Pratham Diwakar  
and Mr. Pravej Hasan, Advocates.  
Mr. Ashish Panday, Mr. Ajay Singh,  
Mr. Akshat Raghuvanshi, Advocates.  
versus

COMMISSIONER OF CUSTOMS .....Respondent  
Through: Ms. Anushree Narian, SSC with Mr.  
Ankit Kumar, Advocate.

**CORAM:**  
**JUSTICE PRATHIBA M. SINGH**  
**JUSTICE RAJNEESH KUMAR GUPTA**

**Prathiba M. Singh, J. (Oral)**

1. This hearing has been done through hybrid mode.
2. The Petitioner was returning to India from Mecca, Saudi Arabia after performing religious pilgrimage (“*Umrah*”) on 11<sup>th</sup> February, 2024. She was wearing two gold bangles weighing 115 grams (*hereinafter*, ‘*detained articles*’) which were detained by the Customs Department and the same were seized.
3. The Petitioner is stated to have visited the Customs Department for release of detained articles on multiple occasions. However, the same has not been released. It is the case of the Petitioner that no show cause notice (*hereinafter*, ‘*SCN*’) has been issued in this matter and no personal hearing has been granted.
4. Ms. Anushree Narain, Id. Sr. Standing Counsel for Respondent submits



that an Order-in-Original has been passed in this case on 01<sup>st</sup> August, 2024. The same has been handed over to the Court today. Let it be taken on record. A perusal of the said Order-in-Original dated 1st August, 2024, would show that the standard pre-printed waiver of SCN and personal hearing has been stated to be signed by the Petitioner. The relevant paragraphs of the order-in-original are set out below:

*“2. The passenger Ms Vavvo holding Indian passport No. B8149099 (hereinafter referred as 'the Pax') arrived at IGI Airport Terminal-3, New Delhi by flight SV-756 dated 11.02.2024 and opted for Green Channel. She was intercepted by the Customs Officer after she had already crossed the Green Channel and after her personal and baggage search "Two yellow metal bangles weighing 115 grams" were found in her possession and were detained vide Detention Receipt (DR) No. DR/INDEL4/11.02.2024/003759 dated 11.02.2024 with remark **Green Channel violation.***

*3. The Pax in her statement dated 11.02.2024 tendered under Section 108 of the Customs Act, 1962 inter alia stated that she was intercepted by the Customs Officer after she had crossed the Green Channel and during the DFMD and Xray, the above said items were recovered from her, **that the above mentioned recovered items did not belong to her**; that she admits her act of omission and commission on her part, that she is well aware of the fact that there is Customs duty on import of above goods; that she would be agreeing with the description, quantity and value to be assessed by the department; that she was ready to pay the Customs duty along with fine/penalty/duty. She further stated that she had tendered her statement true and correct, without any duress, pressure or threat. **Further, she stated that she did not want Show Cause Notice and Personal Hearing in the matter.***

*4. Mr. Manoliar Lal Verma, Advocate submitted a Special Power of Attorney dated 24.02.2024 on behalf of the Pax. Mr.*



*Manohar Lal Verma, Advocate (hereinafter referred to as the AR of the Pax) has Bar Council of Delhi Enrolment No.D/14802/2023 and has his residence address as P.Np.85-86-87, Top Floor, Back side, Kakrola, Hari Vihar, Delhi-110078. The AR of the Pax submitted a request letter dated 13.03.2023 requesting for Release of the detained goods wherein he further inter-alia submitted that the Pax had arrived from Saudi Arabia by flight No.SV-756 dated 11.02.2024 and she opted for Green Channel but did not declare any dutiable item which she brought in her baggage namely two yellow metal bangles and hence the goods were detained. It is further submitted that the detained goods are meant for personal purpose. It was requested that **Release** of the detained goods be permitted. It is further submitted that the Pax regrets her mistake of opting for Green Channel and requested for a lenient view in the matter. It is submitted that she did not want any written show cause notice and personal hearing in the matter and that her case be decided on merit and that an oral SCN has been received.”*

5. From a perusal of the above paragraphs of the Order-in-Original, it also appears that a Special Power of Attorney holder had appeared on behalf of the Petitioner before the Customs Department. The order-in-original has finally directed for absolute confiscation of the detained articles and payment of fine and penalty of Rs.70,000/-. The same is set out below:

21. *In view of the foregoing, I pass the following order:*

**ORDER**

*“i) I deny the 'Free Allowance", if any, admissible to the Pax Ms. Vavvo for not declaring the detained goods to the Proper Officer at Red Channel as well to the Customs Officer at Green Chamel who intercepted her and recovered the detained goods from her.*

*ii) I declare the passenger Ms Vavvo as an "ineligible*



*Passenger" for the purpose of the Notification No. 50/2017-Customs dated 30.06.2017 (as amended) read with Baggage Rules, 2016 (as amended).*

*iii) I order absolute confiscation of Two Gold bangles having average purity 996 with gross and net weight 115 grams having Assessable value Rs.6,85,486/- recovered from the Pax Ms Vavvo and detained vide DR No. DR/INDELA/11.02.2024/003759 dated 11.02.2024 under section 111(d), 111(i), 111(j) and 111(m) of the Customs Act, 1962;*

*iv) I impose a penalty of Rs.70,000/- (Rupees Seventy Thousand Only) on the Pax Ms Vavvo under section 112 (a) and 112(b) of the Customs Act, 1962."*

6. After having perused the matter, it is clear that the non-issuance of the SCN would go to the root of the matter. The pre-printed standard waiver of SCN is contrary to law as it violates the basic principles of natural justice. Moreover, in the cases of *Mr Makhinder Chopra vs. Commissioner of Customs, New Delhi, 2025:DHC-1162-DB* and *Amit Kumar v. The Commissioner of Customs, 2025:DHC:751-DB* this Court has discussed various issues arising in such cases where the goods have been detained from a tourist by the Customs Department, including the issue of personal jewellery being part of personal effects under the Baggage Rules, 2016 and waiver of SCN and personal hearing by way of a preprinted waiver form. The relevant extracts of the said decisions are as under:

**"Amit Kumar v. The Commissioner of Customs, 2025:DHC:751-DB**

**"19. This Court is of the opinion that the printed waiver of SCN and the printed statement made in the request for release of goods cannot be considered or deemed to be an oral SCN, in**



**compliance with Section 124.** *The SCN in the present case is accordingly deemed to have not been issued and thus the detention itself would be contrary to law. The order passed in original without issuance of SCN and without hearing the Petitioner, is not sustainable in law. The Order-in-Original dated 29th November, 2024 is accordingly set-aside”*

**Mr Makhinder Chopra vs. Commissioner of Customs, New Delhi, 2025:DHC-1162-DB**

“17. A conspectus of the above decisions and provisions would lead to the conclusion that **jewellery that is bona fide in personal use by the tourist would not be excluded from the ambit of personal effects as defined under the Baggage Rules.** Further, the Department is required to make a distinction between ‘jewellery’ and ‘personal jewellery’ while considering seizure of items for being in violation of the Baggage Rules.

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34. Since, the Court has made clear that **the practice of making tourists sign undertaking in a standard form waiving the show cause notice and personal hearing is contrary to the provisions of Section 124 of the Act,** hereinafter, the Customs Department is directed to discontinue the said practice. The Customs Department is expected to follow the principles of natural justice in each case where goods are confiscated in terms of Section 124 of the Act.”

7. Further, the detained articles also clearly appear to be used personal effects of the Petitioner. In terms of Rule 2(vi) read with Rule 3 of the Baggage Rules, 2016 (*hereinafter, the ‘the 2016 Rules’*) the Petitioner would be permitted clearance of articles, free of duty in their bona fide baggage, including used personal effects. The relevant provisions of the Rules are extracted hereunder:

“2(vi) “Personal effects” means things required for satisfying



*daily necessities but does not include jewellery.*

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*3. Passenger arriving from countries other than Nepal, Bhutan or Myanmar:- An Indian resident or a foreigner residing in India or a tourist of Indian origin, not being an infant arriving from any country other than Nepal, Bhutan or Myanmar, shall be allowed clearance free of duty articles in his bona fide baggage, that is to say, -*

*(a) used personal effects and travel souvenirs; and*

*(b) articles other than those mentioned in Annexure-I, up to the value of fifty thousand rupees if these are carried on the person or in the accompanied baggage of the passenger:*

*Provided that a tourist of foreign origin, not being an infant, shall be allowed clearance free of duty articles in his bona fide baggage, that is to say, (a) used personal effects and travel souvenirs; and (b) articles other than those mentioned in Annexure- I, up to the value of fifteen thousand rupees if these are carried on the person or in the accompanied baggage of the passenger:*

*Provided further that where the passenger is an infant, only used personal effects shall be allowed duty free. Explanation.- The free allowance of a passenger under this rule shall not be allowed to pool with the free allowance of any other passenger.*

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*5. Jewellery.- A passenger residing abroad for more than one year, or return to India, shall be allowed clearance free of duty in his bona fide baggage of jewellery upto a weight, of twenty grams with a value cap of fifty thousands rupees if brought by a gentleman passenger, or forty grams with a value cap of one lakh*



*rupees if brought by a lady passenger.*

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**ANNEXURE-I**

*(See Rules 3, 4 and 6)*

- 1. Fire arms.*
- 2. Cartridges of fire arms exceeding 50.*
- 3. Cigarettes exceeding 100 sticks or cigars exceeding 25 or tobacco exceeding 125 gms.*
- 4. Alcoholic liquor or wines in excess of two litres.*
- 5. Gold or silver in any form other than ornaments.*
- 6. Flat Panel (Liquid Crystal Display/Light-Emitting Diode/Plasma) television.”*

8. The issue whether gold jewellery worn by a passenger would fall within the ambit of personal effects under the Rules, has now been settled by various decisions of the Supreme Court as also this Court. The Supreme Court in the ***Directorate of Revenue Intelligence and Ors. v. Pushpa Lekhumal Tolani, [(2017) 16 SCC 93]***, while considering the relevant provisions of the Customs Act, 1962 (hereinafter, *the ‘Act’*) read with the Baggage Rules, 1998, that were in force during the relevant period, held that it is not permissible to completely exclude jewellery from the ambit of ‘personal effects’. The relevant paragraphs of the said order read as under:

*“13. Insofar as the question of violation of the provisions of the Act is concerned, we are of the opinion that the respondent herein did not violate the provisions of Section 77 of the Act since the necessary declaration was made by the respondent while passing through the green channel. Such declarations are deemed to be implicit and devised with a view to facilitate expeditious and smooth clearance of the passenger. Further, as per the*



*International Convention on the Simplification and Harmonisation of Customs Procedures (Kyoto 18-5-1973), a passenger going through the green channel is itself a declaration that he has no dutiable or prohibited articles. **Further, a harmonious reading of Rule 7 of the Baggage Rules, 1998 read with Appendix E (2) (quoted above), the respondent was not carrying any dutiable goods because the goods were the bona fide jewellery of the respondent for her personal use and was intended to be taken out of India.** Also, with regard to the proximity of purchase of jewellery, all the jewellery was not purchased a few days before the departure of the respondent from UK, a large number of items had been in use for a long period. It did not make any difference whether the jewellery is new or used. There is also no relevance of the argument that since all the jewellery is to be taken out of India, it was, therefore, deliberately brought to India for taking it to Singapore. **Foreign tourists are allowed to bring into India jewellery even of substantial value provided it is meant to be taken out of India with them and it is a prerequisite at the time of making endorsements on the passport. Therefore, bringing jewellery into India for taking it out with the passenger is permissible and is not liable to any import duty.***

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15. [...] Also, from the present facts and circumstances of the case, it cannot be inferred that the jewellery was meant for import into India on the basis of return ticket which was found to be in the possession of the respondent. Moreover, we cannot ignore the contention of the respondent that her parents at the relevant time were in Indonesia and she had plans of proceeding to Indonesia. **Some of the jewellery items purchased by the respondent were for her personal use and some were intended to be left with her parents in Indonesia. The High Court has rightly held that when she brought jewellery of a huge amount into the country, the respondent did not seem to have the intention to smuggle the jewellery into India and to sell it off.** Even on the examination of the jewellery for costing purposes, it has come out to be of Rs 25



*lakhs and not Rs 1.27 crores as per DRI. The High Court was right in holding that it is not the intention of the Board to verify the newness of every product which a traveller brings with him as his personal effect. It is quite reasonable that a traveller may make purchases of his personal effects before embarking on a tour to India. It could be of any personal effect including jewellery. Therefore, its newness is of no consequence. The expression “new goods” in their original packing has to be understood in a pragmatic way.*

9. In *Saba Simran v. Union of India & Ors.*, 2024:DHC:9155-DB, the Division Bench of this Court was seized with the issue of deciding the validity of the seizure of gold jewellery by the Customs Department from an Indian tourist. The relevant paragraphs of the said judgement are as under:

*“15. The expression ‘jewellery’ as it appears in Rule 2(vi) would thus have to be construed as inclusive of articles newly acquired as opposed to used personal articles of jewellery which may have been borne on the person while exiting the country or carried in its baggage. Thus, personal jewellery which is not found to have been acquired on an overseas trip and was always a used personal effect of the passenger would not be subject to the monetary prescriptions incorporated in Rules 3 and 4 of the 2016 Rules.*

*16. This clearly appeals to reason bearing in mind the understanding of the respondents themselves and which was explained and highlighted in the clarificatory Circular referred to above. That Circular had come to be issued at a time when the Appendices to the 1998 Rules had employed the phrase “used personal effects, excluding jewellery”. The clarification is thus liable to be appreciated in the aforesaid light and the statutory position as enunciated by the respondents themselves requiring the customs officers to bear a distinction between “personal jewellery” and the word “jewellery” when used on its own and as it appears in the Appendices. This position, in our considered opinion, would continue to endure and remain unimpacted by*



**the provisions contained in the 2016 Rules.**”

10. The above mentioned decision of the Division Bench of this Court was challenged before the Supreme Court in *SLP(C) No. 011281 / 2025* titled *Union of India & Ors. v. Saba Simran*. The Supreme Court, while dismissing the said challenge, held as under:

*“1. Delay condoned.*

*2. Having heard the learned counsel appearing for the petitioners and having gone through the materials on record, we see no reason to interfere with the impugned order passed by the High Court.*

*3. The Special Leave Petition is, accordingly, dismissed.*

*4. Pending application(s), if any, stands disposed of.”*

11. This Court in *Mr Makhinder Chopra vs. Commissioner Of Customs New Delhi, 2025:DHC:1162-DB*, had the occasion to consider the relevant provisions of the Rules, as also the decisions of the Supreme Court and this Court. After analysing the same, this Court held as under:

*“17. A conspectus of the above decisions and provisions would lead to the conclusion that jewellery that is bona fide in personal use by the tourist would not be excluded from the ambit of personal effects as defined under the Baggage Rules. Further, the Department is required to make a distinction between ‘jewellery’ and ‘personal jewellery’ while considering seizure of items for being in violation of the Baggage Rules.”*

12. Thus, it is now settled that the used jewellery worn by the passenger would fall within the ambit of personal effects in terms of the Rules, which would be exempt from detention by the Customs Department.

13. In view of the above and considering the facts of the case, it is clear



that the detained articles are the personal effects of the Petitioner.

14. The detained articles being personal effects of the Petitioner, the detention of the same itself would be contrary to law. Accordingly, the detained articles would be liable to be released on this ground itself. The gold items shall be released by the Customs Department to the Petitioner.

15. Petitioner may collect the detained goods in person or through an Authorised Representative, in which case, the detained goods shall be released after receiving a proper email from the Petitioner or some form of communication that the Petitioner has no objection to the same being released to the concerned Authorised Representative.

16. In view thereof, the impugned Order-in-Original dated 1st August, 2024 is set aside to the extent that it orders absolute confiscation. The Petitioner shall however pay the penalty of Rs.70,000/- and 50% of the warehousing charges.

17. Petition is disposed of in these terms. All pending applications, if any, are also disposed of.

**PRATHIBA M. SINGH**  
**JUDGE**

**RAJNEESH KUMAR GUPTA**  
**JUDGE**

**MAY 29, 2025**

v/ss