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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 29th May, 2025

+ **W.P.(C) 5082/2025**

ZINAT BEGUM

....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 Narain, 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 present writ petition has been filed under Article 226 of the Constitution of India seeking release of the jewellery detained by the Customs Department *vide* Detention Receipt dated 6th December, 2023.
3. The Petitioner is an Indian citizen. It is stated that the Petitioner was returning to India from Mecca, Saudi Arabia after performing religious pilgrimage (“*Umrah*”) on 06th December, 2023. The Customs Department intercepted her upon her arrival at the Indira Gandhi International Airport, New Delhi. The Petitioner was wearing four gold bangles and one gold ring weighing 132 grams and 50 grams, respectively, (hereinafter “*the detained jewellery*”) which were detained by the Customs Department.
4. It is the case of the Petitioner that she had personally visited the



Customs Department seeking status of the detained jewellery as also release of the same. However, the detained jewellery has not been released till date. It is also stated that no show cause notice (hereinafter “SCN”) has been issued in this matter and no personal hearing was also granted.

5. Ms. Anushree Narain, Id. Sr. Standing Counsel for the Customs Department submits that the Order-in-Original has been passed on 21st May, 2024. A copy of the same has been handed over by the Id. Counsel and the same is taken on record.

6. Heard Id. Counsels for the parties. The Court has also perused the documents as also the Order-in-Original placed on record. A perusal of the said order would show that the standard pre-printed waiver had been signed by the Petitioner, as recorded in the order. The relevant paragraphs of the order-in-original are set out below:

“2. The passenger Ms Zinat Begum holding Indian passport No. T0580294 (hereinafter referred as 'the Pax') arrived from Saudi Arabia at the IGI Airport Terminal-3, New Delhi by flight 6E-64 dated 06.12.2023 and opted for Green Channel. She was intercepted by the Customs Officer after she had already crossed the Green Channel and during her personal & baggage search "One yellow metal chain and 4 yellow metal bangles totally weighing 182 grams" were found and detained vide Detention Receipt (DR) No. DR/INDEL4/06.12.2023/003254 dated 06.12.2023 with remark Green Channel violation.

3. The Pax tendered her statement dated 06.12.2023 under Section 108 of the Customs Act, 1962 in which she interalia stated that she was intercepted by the Customs Officer after he had already crossed the Green Channel and during the DFMD the above said items One yellow metal chain and four yellow metal bangles appearing to



*be made of gold weighing 182 grams were recovered from her, that the above mentioned recovered items belongs to her, that he admitted the act of omission and commission on her part; that she was well aware of the fact that there was Customs Duty on import of above goods, that she intentionally did not declare the recovered items; that she would be agreeing with the description and quantity assessed by the department and ready to pay the Customs duty along with fine and penalty as applicable. She further stated that she had tendered her statement true and correct, without any duress, pressure or threat. **Further, she requested that she did not want Show Cause Notice and Personal Hearing and her case may be decided on merit.***

*4. The Pax submitted a request letter dated 11.12.2023 for Release of the detained goods. It is further interalia submitted that the she had arrived from Saudi Arabia by flight no. 6E-64 dated 06.12.2023 and opted for the Green Channel but did not declare any dutiable item which she brought in his baggage and hence they were detained. It is further submitted that the detained goods are meant for personal use and as such requested for Release of the detained goods. It is also submitted that the Pax regrets her mistake of opting for Green Channel and **requested for a lenient view to be taken in the matter and that the case be decided on merit and as such did not want any show cause notice and personal hearing in the matter. An oral SCN has been received.***

The detained goods were physically examined/appraised by the Jewellery Appraiser with Keratometer in the presence of the Pax on 11.12.2023. The Appraisal report of the Jewellery Appraiser is as under:-



S.No.	Description of Pieces of Yellow Metal marked as	Average purity	Gross Weight in grams	Net Weight in grams	Assessable Value
1	Four gold bangles	997	132	132	784,369
2	One gold chain	997	50	50	297,110
	Total		182	182	10,81,479

(Value has been determined in accordance with Gold rate notification No 89/2023 – Customs (N.T.) dated 30.11.2023 = 659 USD per 10 gm. Exchange rate notification No. 84/2023 – Customs (N.T.) dated 16.11.2023 = 84.10/-)

7. The order-in-original has finally directed absolute confiscation and payment of penalty of Rs.1,00,000/-. The same is set out below:

ORDER

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

ii) I declare the passenger Ms Zinat Begum 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 :-

(i) Four Gold bangles having average purity 997 with gross and net weight 132 grams having Assessable value Rs.7,84,369/-

(ii) One Gold chain having average purity 997 with gross and net weight 50 grams having Assessable value Rs.2,97,110/-

(iii) The total Assessable of all gold items is



Rs.10,81,479/-

recovered from the Pax Ms Zinat Begum and detained vide DR No. DR/INDEL4/06.12.2023/003254 dated 06.12.2023 under section 111(d), 111(1) and 111(m) of the Customs Act. 1962;

*iii) I also impose a penalty of **Rs 1,00,000/- (Rupees One Lakh Only)** on the Pax Ms Zinat Begum under section 112 (a) and 112(b) of the Customs Act, 1962.*

8. It is noted that no Show Cause Notice has been issued in this case as the Customs Department is relying on the standard pre-printed waiver that was obtained from the Petitioner. The validity of such pre-printed waiver of SCN and personal hearing has been considered by this Court in various matters, including in *Amit Kumar v. The Commissioner of Customs, 2025:DHC:751-DB* and *Mr Makhinder Chopra vs Commissioner of Customs New Delhi, 2025:DHC:1162-DB*. The operative portion of the judgement in *Amit Kumar (supra)* is as under:

“16. A perusal of Section 124 of the Act along with the alleged waiver which is relied upon would show that the oral SCN cannot be deemed to have been served in this manner as is being alleged by the Department. If an oral SCN waiver has to be agreed to by the person concerned, the same ought to be in the form of a proper declaration, consciously signed by the person concerned. Even then, an opportunity of hearing ought to be afforded, inasmuch as, the person concerned cannot be condemned unheard in these matters. Printed waivers of this nature would fundamentally violate rights of persons who are affected. Natural justice is not merely lip-service. It has to be given effect and complied



with in letter and spirit.

17. The three-pronged waiver which the form contains is not even decipherable or comprehensible to the common man. Apart from agreeing as per the said form that the oral SCN has been served, the person affected has also waived a right for personal hearing. Such a form in fact shocks the conscience of the Court, that too in cases of the present nature where travellers/tourists are made to run from pillar to post for seeking release of detained goods.

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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”

9. Further, this Court in ***Makhinder Chopra (supra)*** had analysed Section 124 of the Customs Act, 1962 (hereinafter “*the Act*”) while considering the issue of waiver of show cause notice and personal hearing. The Court while replying on the decision in ***Amit Kumar (supra)*** held as under:

“23. As mentioned above, the Customs Department has relied upon the undertaking in a standard form dated 17th June, 2024 signed by the Petitioner, wherein the Petitioner has waived of issuance of the show cause notice and personal hearing. It is admitted position that no show cause notice has



been issued to the Petitioner on the basis of the said undertaking.

24. The issuance of a show cause notice before confiscation of goods by the Customs officials is covered under Section 124 of the Act, which reads as under: “

“124. Issue of show cause notice before confiscation of goods, etc.— No order confiscating any goods or imposing any penalty on any person shall be made under this Chapter unless the owner of the goods or such person—

(a) is given a notice in writing with the prior approval of the officer of Customs not below the rank of an Assistant Commissioner of Customs, informing him of the grounds on which it is proposed to confiscate the goods or to impose a penalty;

(b) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation or imposition of penalty mentioned therein; and

(c) is given a reasonable opportunity of being heard in the matter:

Provided that the notice referred to in clause (a) and the representation referred to in clause (b) may, at the request of the person concerned be oral.

Provided further that notwithstanding issue of notice under this section, the proper officer may issue a supplementary notice under such circumstances and in such manner as may be prescribed.”

25. A perusal of the above Section would show that the principles of natural justice have to be followed by the



Customs Department before detention of the goods.

The Section provides a three-fold requirement:

i) a notice in writing informing the grounds of confiscation;

ii) An opportunity of making a representation in writing against the said grounds of confiscation;

iii) A reasonable opportunity of personal hearing.

26. In terms of proviso to the said Section, the Customs Authority may issue an oral show cause notice to the tourist in lieu of a written show cause notice at the request of the said tourist. **However, in the opinion of the Court the undertaking in a standard form as relied upon by the Customs Department waiving the issuance of show cause notice and personal hearing would not satisfy the requirements of Section 124 of the Act.**

27. This Court recently in *Amit Kumar v. The Commissioner of Customs*, 2025:DHC:751 DB was considering similar facts wherein the Petitioner had also signed an undertaking waiving show cause notice and personal hearing. The Court had analysed and discussed the validity of such undertaking vis-à-vis Section 124 of the Act. [...]

28 **In view of the above observations, it is clear that the undertaking signed by the Petitioner in the present case cannot be sustained in law.** Accordingly, the Customs Department has failed to satisfy the requirements of Section 124 of the Act in the present case. Therefore, the detention of the Petitioner's gold chain has to be set aside.

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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.”

10. Thus, the law is well settled, that the Customs Department cannot rely on pre-printed waiver of show cause notice as the same would be contrary to the requirement of Section 124 of the Act. In light of the above discussions, it is clear that the continued detention or seizure of goods by the Customs Department would be untenable in law, where the show cause notice or the personal hearing have been waived *via* a pre-printed waiver.

11. Accordingly, in the facts of this case, since no show cause notice has been issued to the Petitioner due to a pre-printed waiver, the detained jewellery would be liable to be released to the Petitioner.

12. In view thereof, the impugned order-in-original is set aside to the effect that it orders absolute confiscation. However, in the facts of this case, the Petitioner shall pay the penalty of Rs.1,00,000/- and 50% of the warehousing/storage charges.

13. The Petitioner may collect the detained jewellery 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.

14.. Let the detained jewellery be released within a period of four weeks.



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15. Accordingly, the petition stands disposed of. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

MAY 29, 2025

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