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

Date of decision: 11th November, 2025

\+ **W.P.(C) 17062/2025**

IZHAAR UL ISLAM .....Petitioner

Through: Mr. Amit Atri, Adv.

versus

COMMISSIONER OF CUSTOMS IGI AIRPORT T3 NEW DELHI .....Respondent

Through: Mr. Atul Tripathi, SSC

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

2. The Petitioner seeks release of the detained gold bracelet weighing 30 grams, which was seized by the Customs Department on 24th March, 2024 when the Petitioner was travelling from Saudi Arabia to New Delhi, where he had gone for pilgrimage purposes.

3. It is the case of the Petitioner that no show cause notice has been issued till date.

4. The Petitioner relies upon the judgment of the Supreme Court in ***Civil Appeal No. 3489/2024*** titled ***Union of India &Anr. v. Jatin Ahuja***which reads as under:

> *"17. It is difficult for us also to subscribe to the views expressed by the Bombay High Court in Jayant Hansraj Shah's case (supra).* ***We are of the view that the only power that has been conferred upon the Revenue to extend the time period is in accordance with the first proviso to Sub-section (2) of Section 110***

of the Act, 1962. The Delhi High Court is right in saying that any effort to say that the release under Section 110A of the Act, 1962 would extinguish the operation of the consequence of not issuing show-cause notice within the statutory period spelt out in Section 110(2) would be contrary to the plain meaning and intendment of the statute.

18. The Delhi High Court has done well to explain that this is so because Section 110A, is by way of an interim order, enabling release of goods like fast moving or perishable etc. The existence of such power does not, in any way, impede or limit the operation of the mandatory provision of Section 110(2).

19. ***In the case in hand, indisputably the car was seized under sub-section (1) and furthermore no notice in respect of the goods seized was given under clause (a) of section 124 of the said Act within six months of the seizure. The consequence, therefore, in such a case is that the goods shall be returned to the person from whose possession they were seized. The first proviso to sub-section (2) of section 110 of the said Act, however, provides that the Principal Commissioner of Customs or Commissioner of Customs may, for reasons to be recorded in writing, extend the six months' period by a period not exceeding six months and inform the person from whom such goods were seized before the expiry of the period so specified. The proviso therefore contemplates that the period of six months mentioned in sub-section (2) of section 110 of the said Act can be extended by the higher authority for a further period not exceeding six months, for reasons to be recorded in writing. The proviso also requires the higher authority to inform this to the person from whom such goods were seized before the expiry of the period of six months mentioned in sub-section (2) of section***

> ***110.*** *We find that in respect of the seized car, there is neither any notice under clause (a) of section 124 issued to the respondent within six months of the seizure nor the period of six months ever came to be extended for a further period of six months.* ***In the absence of there being any notice as required by the first proviso even within the extended period upto one year, the consequence that ought to follow is release of the seized car.***
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> *[...]*
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> *24. The appeals before us are all anterior in time to the coming into force of the second proviso to Section 110(2) of the Act, 1962. Although, it is not necessary for us to say anything further, yet* ***we may clarify that the time period to issue notice under Clause (a) of Section 124 is prescribed only in sub-section (2) of Section 110 of the Act, 1962. This time period has nothing to do ultimately with the issuance of show-cause notice under Section 124 of the Act, 1962. The two provisions are distinct and they operate in a different field."***

5. On the other hand, Mr. Tripathi, ld. SSC confirms that no show cause notice has been issued in this matter.

6. Further, it is submitted on behalf of the Petitioner that the detained jewellery is a personal effect of the Petitioner which he had purchased in India itself. In respect of the same, in the writ petition, the Petitioner has made the following averments:

> *"3. The petitioner is involved in the business of tour and travels and went to Saudi Arabia for Umrah for religious purpose. The petitioner is an Indian citizen having passport No. T9088635.* ***The seized bracelet was worn by the petitioner for fashion and***

> ***the same was purchased by him in India***. *At the time of interception of the petitioner by the Customs officials at T-3 IGI airport New Delhi on 24.03.2024,* ***the petitioner was wearing his personal jewellery i.e. one bracelet,*** *which was seized by the Customs officials on 24.03.2024 under Section 110 of the Customs Act, 1962. A copy of detention receipt issued dated 24.03.2024 and marked as Annexure P-1."*

7. From the above averments, it is clear that the detained jewellery is a personal effect of the Petitioner which was purchased in India itself and it was not an imported product.

8. Further, 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 view thereof, in terms of the judgment in ***Jatin Ahuja (supra) as well as in Pushpa Tolani (supra)***, the detained jewellery is directed to be released to the Petitioner unconditionally without collecting any customs duty, penalty or redemption fine.

10. However, the Petitioner shall pay 50% of the warehousing charges, as per the charges applicable on the date of detention.

11. The petition is disposed of in these terms. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J.

SHAIL JAIN, J.

NOVEMBER 11, 2025/*pt/msh*