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

Date of decision: 12th November, 2025

+ **W.P.(C) 17177/2025**

MOHAMMAD NOMAN RANAPetitioner

Through: Mr. Mobin Akhtar, Adv.
versus

THE COMMISSIONER OF CUSTOM & ORS.Respondents

Through: Mr. Aditya Singla, SSC, CBIC with
Ms. Arya Suresh Nair, Mr. Akhil
Sharma, Ms. Shreya Lamba and Mr.
Dhananjay Gautam, Advs.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE SHAIL JAIN

JUDGMENT

Prathiba M. Singh, J.

1. This hearing has been done through hybrid mode.
2. The Petitioner, *inter alia*, challenges the continued detention of two rectangular gold bars weighing 233 grams (24 karat purity) which was seized by the Customs Department *vide* Detention Receipt dated 8th April, 2023, when he was travelling from Saudi Arabia to India.
3. The case of the Petitioner is that no Show Cause Notice has been issued, no hearing has been granted and no order has also been passed.
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.***
5. Mr. Aditya Singla, Id. SSC, on behalf of the Customs Department, submits that there was a waiver of SCN and the Petitioner did not appear for personal hearing or appraisalment.



6. Heard. It is clear that, till date, there has been no order which has been passed in this matter. In *Jatin Ahuja (supra)*, the Supreme Court had observed 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.

[...]

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."

7. It is clear that no show cause notice has been issued and no personal hearing has been provided, on the ground that the Petitioner had waived of the same. However, this Court in *W.P. (C) 15973/2024* titled *Amit Kumar*



vs. *The Commissioner of Customs*, has clearly held that the same is impermissible. The relevant portion of the said judgement reads 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.**

[...]

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.”

8. Further, this Court in **Mr Makhinder Chopra vs Commissioner of Customs New Delhi, 2025:DHC:1162-DB** 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 relying on the decision in **Amit Kumar (supra)** held as under:

“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. [...]



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.”

9. Accordingly, in view of the settled law discussed above the detained bars would be liable to be released on this ground itself. Further, in terms of the decision of the Supreme Court in *Jatin Ahuja (supra)* in the absence of any show cause notice being issued within the prescribed period under Section 110 of the Act, the detained gold bars would have to be released.

10. Accordingly, the seized items are directed to be released subject to payment of full applicable Customs Duty as also the complete warehousing charges.

11. The Petitioner is directed to appear before the Customs Department on 27th November, 2025. The Nodal Officer mentioned below shall facilitate the Petitioner's appearance before the competent authority for compliance with the present order:

Name: Mr. MukeshGulia,
Designation: Superintendent, Legal, Customs
Address: IGI Airports, T-3, New Delhi
Email id: igilegaldelhi@gmail.com

12. In these facts, no penalty and redemption fine would be liable to be paid and the release shall be effected by 10th December, 2025.



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

PRATHIBA M. SINGH
JUDGE

SHAIL JAIN
JUDGE

NOVEMBER 12, 2025/kp/msh