



\$~64

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

Date of Decision: 17th September, 2025

+ **W.P.(C) 14401/2025**

BALWINDER SINGH VIGPetitioner
Through: Dr. Ashutosh and Ms. Fatima, Advs.
versus

COMMISSIONER OF CUSTOMSRespondent
Through: Mr. Adit Khorana (SSC), Ms. Simran
Khorana, Adv.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner under Articles 226 and 227 of the Constitution of India, *inter alia*, seeking the Customs Department to release the Petitioner's gold *kada*, weighing 150 grams, and issue an appropriate writ directing the Customs Department to not demand warehousing charges from the Petitioner.
3. A brief background of the Petitioner's case is that, Petitioner is a resident of the United Kingdom, holding a British passport. On 27th February, 2024 he arrived in India, and was intercepted by the Customs Department. Thereafter, a gold *kada* weighing 150 grams, and a pair of gold bracelets weighing 80 grams were detained by the Customs Department *vide* detention receipt dated 27th February 2024 (appraised on 28th February 2024).
4. After the detention of the gold items, an Order-in-Original dated 8th March 2024 was passed by the Joint Commissioner of Customs (*hereinafter*



‘OIO’) directing absolute confiscation of the gold *kada*, but the gold bracelets were released, subject to payment of redemption fine for the purpose of re-export. The operative portion of the order reads as under:

“ORDER

- (i) *I deny the 'Free Allowance' if any admissible to the passenger **Mr. Balwinder Singh Vig** for the various acts of commission and omission;*
- (ii) *I declare the passenger, **Balwinder Singh Vig** is "an ineligible Passenger" for the purpose of the Notification No. 50/2017-Cus dated 30.06.2017 (as amended) read with Baggage Rules, 2016 (as amended);*
- (iii) *I order absolute confiscation of "One gold Kada having purity 999 weight 150 grams valued at Rs. 8,79,182/-" recovered from the Pax **Mr. Balwinder Singh Vig** and detained vide **DR No. DR/INDEL/27.02.2024/0028075** dated **27.02.2024**, under Section under Section 111 (d), 111 (j) & 111 (m) of the Customs Act, 1962;*
- (iv) *I order confiscation of "One pair of gold Gokhru (Bracelet), one of which appears to be broken In two part having purity 954 weight 160 grams valued at Rs. 8,99,151/-" recovered from the Pax **Mr. Balwinder Singh Vig** and detained vide **DR No. DR/INDEL/27.02.2024/0028075** dated **27.02.2024**, under Section under Section 111 (d).111 (j) & 111 (m) of the Customs Act, 1962;*
- (v) *I give an option to redeem the goods confiscated above in para (iv), on payment of a fine or **Rs. 1,35,000/- (Rupees One Lakh Thirty Five Thousand Only)** under Section 125 of Customs Act, 1962 and allowed the same for re-export from India only by the Pax since the **passenger is.***



a British national having British Passport No. 549113212. The redemption is to be allowed after the completion of legal formalities in this regard and also fulfillment of any regulatory clearances/ approvals required. The offer of redemption, if accepted, shall be subject to condition that the Pax shall not dispute the identity and valuation of the detained goods. The offer of redemption shall cease after 'One Hundred Twenty Days' from date of the receipt of this order;

(vi) *I also impose a penalty of Rs. 1,80,000/- (Rupees One Lakh Eighty Thousand Only) on the passenger Mr. Balwinder Singh Vig under Section 112(a) & 112(b) of the Customs Act, 1962.”*

5. This order was challenged by the Petitioner by way of an appeal, and as per the Order-in-Appeal dated 27th June 2025 passed by the Commissioner of Customs (Appeals), Indira Gandhi International Airport, Terminal-3, New Delhi (*hereinafter 'OIA'*) the gold *kada* was permitted to be released on the following grounds:

“5.11 On the issue of allowing the said gold for re-export, I find that the appellant is a foreign resident. Thus, essential condition of leaving India is undisputed. The only fault that remains is non-declaration. In the case of Anjali Dechsakphan (2018 (363) ELT 802 (GOI)], the Revisionary authority upheld redemption for re-export in similar circumstances. Moreover, impugned gold is not going to enter domestic market, if allowed re-export and thus no detrimental effect to economy is anticipated. In case of Surya Babbar [2018(364) ELT 1196 (GOI)], the Government had allowed re-export of confiscated gold under similar circumstances. In case of Hajara Mariyam Seyed [2023(383) ELT 145 (Mad.)], Hon'ble High Court



upheld the order of the Government allowing re-export of confiscated gold under similar conditions. Incase of Ashok Kumar Chirimar [2019 (370) ELT 1730 (GOI)], the Government allowed re-export noting that return of passenger to foreign country was crucial condition for re-export and non-declaration has been considered in several cases. Accordingly, I allow re-export of the impugned gold kada under Section 125 of the Customs Act, 1962 on payment of redemption fine of Rs.1,30,000/- {Rupees One Lakh and Thirty Thousand only) under Section 125 of the Customs Act, 1962.

5.12 I uphold the penalty of Rs.1,80,000/- {Rupees One Lakh Eighty Thousand only) imposed on the appellant under Section 112 (a) & 112(b) of the Customs Act, 1962 in view of the established violation of Section 77 of the Customs Act, 1962. It was submitted by the appellant that he has already got release of the item allowed for re-export by the adjudicating authority, after making payment of redemption fine and aforesaid penalty of Rs.1,80,000/- imposed on the appellant vide impugned OIO, vide Challan No.25450 dated 27.03.2024.

Order

*6.0 In light of discussions and findings as above, I allow the appeal partially against OIO No. 1287/0028075/27.02.2024/WH/2023-24 dated 11-03-2024 passed by the Joint Commissioner of Customs, T-3, IGI Airport, New Delhi and order that the impugned **gold kada having purity 999, weighting 150 grams valued at Rs.7,79,182/-** be released to the appellant on payment of redemption fine of Rs.1,30,000/- (Rupees One Lakh and Thirty Thousand only) under Section 125 of the Customs Act, 1962 for re-export.*

The penalty of Rs.1,80,000/- (Rupees One Lakh Eighty Thousand only) imposed on the appellant under Section 112(a) & 112(b) of the Customs Act, 1962 vide impugned OIO is upheld which is stated to have already been paid by the appellant.



The Appeal is disposed off with such modifications and consequential relief as above.”

6. Ld. Counsel for the Petitioner submits that the Petitioner is travelling to India next month, and wishes to obtain release the gold *kada*, which has been directed to be released in terms of the order passed by the Appellate Authority.

7. Heard. The Court has gone through the matter, as also the OIA. The OIA is a reasoned one, and the Petitioner must be wearing a gold *kada*, due to his religious identity. Moreover, this Court in *W.P. (C) 5136/2025* titled *Dalvinder Singh Sudan vs. Commissioner of Customs* has observed as under:

“6. Clearly, a perusal of the photographs and the fact that it is one Kada which is usually worn by persons like the Petitioner who are Sikhs, leaves no doubt in the mind of the Court that the same was a personal effect of the Petitioner. 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.....”

8. At this stage, it is noticed, as observed in *W.P. (C) 14324/2025* titled *Mushlina vs. Commissioner of Customs* that the Customs Department do not appear in the Appellate proceedings and none of the orders of the Appellate



Authority are mostly given effect to. The Customs Department merely chooses to file a revision application and does not serve the said revision application on the Petitioner. In the said case, this Court vide order dated 16th September 2025 had directed as under:

“11. It is noticed in several cases that the Customs Department does not appear before the Appellate Authority at all and none of the orders of the Appellate Authority are mostly given effect to. The Customs Department merely chooses to file a revision application and does not serve the said revision application on the Petitioner. Almost 11 months have passed since the filing of the revision and no proceedings have been held in respect thereof.

12. Under these circumstances, this Court is of the view that since the Commissioner (Appeals) has already taken a decision in favour of the Petitioner, the said Order-in-Appeal deserves to be given effect to, Accordingly, let the Appellate Authority’s order be given effect to.

13. In view of the delay which has been caused by the Customs Department, the warehousing charges shall stand waived in the present case. The applicable customs duties shall, however, be paid.”

9. In the present matter also, the stand of the Customs Department is that it is contemplating to file a revision, as stated by the Id. Counsel on behalf of the Customs Department.

10. Since the OIA is a well-reasoned one, this Court is of the opinion that the same deserves to be given effect to. Accordingly, let the OIA be given effect to. The warehousing charges are waived in this matter.

11. Let the petitioner appear before the Customs Authority on 13th October,



2025:DHC:8366-DB



2025. The Nodal Officer mentioned below shall facilitate the Petitioner's appearance before the competent authority for compliance with the present order:

***Mr. Sandeep Lamba, Superintendent, Customs
Office of Commissioner, Customs
IGI Airports, T-3, New Delhi
Mobil No.7405345000
Email id: igilegaldelhi@gmail.com***

12. The present petition along with pending application/s, if any, is disposed of in above terms.

**PRATHIBA M. SINGH
JUDGE**

**SHAIL JAIN
JUDGE**

SEPTEMBER 17, 2025/kp/sm