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

Date of decision: 10th March, 2025

+ **W.P.(C) 2784/2025, CM APPL. 13194/2025 & CM APPL. 3195/2025**

GOPIKA VENNANKOT GOVIND

.....Petitioner

Through: Mrs. Kavitha K.T., Mr. Subash Chandran, Mr. Sharat Gopal, Mr. Syam Krishnan K., Mr. Akash Awana, Ms. Minal Pandagare and Ms. Shakki Chaturvedi, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Ms. Anushree Narain, SSC with Mr. Ankit Kumar, Adv.

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 petition has been filed by the Petitioner-Gopika Vennankot Govind under Article 226 of the Constitution of India *inter alia* seeking issuance of an appropriate writ for setting aside the order dated 7th November, 2024 passed by the Assistant Commissioner of Customs, Terminal-3, Indira Gandhi International Airport, New Delhi (*hereinafter, the 'adjudicating authority'*) by which, the adjudicating authority has seized the Petitioner's two gold chains with pendants, weighing a total of 49 grams, valued at Rs. 3,15,795/-.
3. A brief background of the present case as stated in the petition is that the Petitioner is a minor aged about 17 years, who was travelling with her



family from the United Arab Emirates ('UAE') to Delhi. The Petitioner along with her family, arrived at the Indira Gandhi International Airport, New Delhi on 9th April, 2024. It is stated that the family was travelling to India to participate in a relative's wedding which was to be held in Kerala on 21st April, 2024. Further, on 9th April, 2024 as soon as the Petitioner reached the airport with her family, her jewellery, which she was carrying in person *i.e.* two gold chains with pendants, weighing a total of 49 grams, was detained by the Custom authorities.

4. It is the case of the Petitioner that the said jewellery has been worn by her since her childhood days and the same was confiscated by the Custom authorities while the family was crossing the green channel. Appraisal was sought by the Petitioner's father on 22nd May, 2024 and he also agreed for re-exporting the gold items. Further, the Petitioner's father submitted a statement to the concerned Custom officials dated 9th April, 2024 and thereafter sent a letter dated 20th May, 2024 providing details of the detained jewellery items as also highlighting that the Petitioner is an eligible passenger under the Baggage Rules, 2016. However, the adjudicating authority passed the impugned order thereby seizing the jewellery of the Petitioner.

5. The Court has perused the impugned order passed by the adjudicating authority. The same is extracted for a ready reference: (Extract pg 49-Order, Annex, P-1)

*"1) I deny the 'Free Allowance' if any, admissible to the Pax **Gopika Vennankout Govind** for not declaring the detained goods to the Proper Officer at Red Channel as well to the Customs Officer at Green Channel who intercepted him and recovered the detained goods from him.*

*ii) I declare the passenger, **Gopika Vennankot***



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

iiii) I order confiscation of the "Two gold chains with pendants having purity 937. weight 49 grams, valued at Rs. 3,15,795/-" recovered from the Pax Gopika Vennankot Govind and detained vide DR No. "DR/INDEL4/10.04.2024/52601 dt. 10.04.2024" under section 111(d), 111(j) and 111(m) of the Customs Act, 1962;

iv) I give an option to redeem, the goods confiscated, above, on payment of fine of Rs. 40,000/- (Rupees Forty Thousand Only) under Section 125 of the Customs Act, 1962 and allow the same for re-export from India only by the Pax since the Pax is a holder of valid resident ID No.-784-2007-2059625-1, issuing date 05.06.2023, Expiry date 25.05.2025, issued by the United Arab Emirates. I allow redemption of the detained goods within 120 days of issue of this order under Section 125(3) of the Customs Act, 1962) The redemption is allowed after the completion of legal formalities in this regard and also on fulfillment of any regulatory clearances/ approvals/ payments, as required. The offer of redemption, if accepted, shall be subject to condition that the Passenger shall not dispute the identity and valuation of the goods. The offer of redemption shall cease after 120 days of the receipt of this order.

v) I also impose a penalty of Rs.32,000/- (Rupees Thirty Two Thousand Only) on the Pax Gopika Vennankot Govind under section 112 (a) and 112(b) of the Customs Act, 1962."

6. The impugned order *inter alia* holds that the passenger is an eligible passenger in terms of the *Notification No. 50/2017-Customs* dated 30th June,



2017 (as amended) read with Baggage Rules, 2016 (as amended). Further, the Petitioner is free to redeem both the chains by paying a fine of Rs. 40,000/- and incurring an additional penalty of Rs. 32,000/-. In addition, Rs. 250/- per day is being sought as warehousing charges for the two chains.

7. The impugned order also records that no show cause notice and personal hearing was sought by the Petitioner. The relevant portion of the impugned order recording the same is extracted hereinunder for a ready reference:

“ DISCUSSIONS & FINDINGS

8. I have carefully gone through the facts of the case and considered the submissions/ admissions made by the Passenger in her statement dated 10.04.2024. The Pax has also requested waiver of Show Cause Notice and Personal Hearing vide letter dated 22.05.2024 and after accepting her request, I proceed to adjudicate the case.”

8. Ld. Counsel for the Petitioner submits that these are small gold chains which the Petitioner used to wear since childhood and the same ought to be returned to the Petitioner. They are her personal effects.

9. A photograph of the Petitioner wearing the said jewellery as a child has also been placed on record. The wedding card showing the date of marriage on 21st April, 2024 has also been placed on record. A perusal of the photographs along with the wedding card would itself show that she is a *bona fide* passenger who was travelling to India to attend a wedding ceremony.

10. It is not in dispute as has been recorded by the adjudicating authority that the Petitioner herself is a UAE resident with a proper resident ID. The two gold chains have been valued at Rs. 3,15,795/-.



11. The Petitioner being a non-resident is fully entitled to the benefit provided to an eligible passenger under the Baggage Rules, 2016. The goods constitute personal effects of the Petitioner and could not have been seized in the manner the Custom authorities have.

12. This Court has now pronounced several orders/judgments, following various judgments of the Supreme Court and this Court, wherein it has been held clearly that if the gold items seized are personal jewellery, the same would not be liable to be confiscated. The few orders/judgments passed by this Court in this regard are as under:

- ***Nathan Narayanswamy v. Commissioner of Customs, [Delhi High Court, W.P.(C) 6855/2023 dated 15th September, 2023]***
- ***Farida Aliyeva v. Commissioner of Customs, (2024:DHC:9533-DB).***
- ***Rahul Vattamparambil Remesh v. Union Of India & Ors. (2025:DHC:1444-DB).***

13. Moreover, in the present case, a show cause notice has not been issued to the Petitioner as also no personal hearing has been afforded.

14. The waiver of show cause notice and personal hearing is not in accordance with law as held recently in a catena of judgments, including the following:-

- (i) ***Amit Kumar v. The Commissioner of Customs (2025:DHC:751-DB)***
- (ii) ***Mr. Makhinder Chopra v. Commissioner of Customs, New Delhi, (2025:DHC:1162-DB)***
- (iii) ***Mohamed Shamiuddeen v. Commissioner of Customs & Ors. (2025:DHC:1079-DB).***



15. The impugned order dated 7th November, 2024 passed by the adjudicating authority is accordingly quashed. No penalty or redemption fine shall be collected from the Petitioner. No warehousing charges shall also be liable to be collected from the Petitioner. The charges, if any, already deposited shall be refunded to the Petitioner.

16. The gold items of the Petitioner seized by the Custom officials in the present case, may be released within two weeks to the Petitioner or any authorised representative, after verifying their identity.

17. The petition is disposed of. All pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

MARCH 10, 2025

dj/rks