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

*Date of decision: 18<sup>th</sup> August, 2025*

+ **W.P.(C) 11902/2025**

**PRADEEPA SHIVASHANKAR**

.....Petitioner

Through: Dr. Ashutosh and Ms. Fatima Bano,  
Adv. (M:9873554305)

versus

**COMMISSIONER OF CUSTOMS**

.....Respondent

Through: Mr. Aditya Singla, SSC, CBIC with Ms.  
Arya Suresh Nair, Adv

**CORAM:**

**JUSTICE PRATHIBA M. SINGH**

**JUSTICE SHAIL JAIN**

**JUDGMENT**

**Prathiba M. Singh, J.**

1. This hearing has been done through hybrid mode.
2. The present petition has been filed, *inter alia*, seeking release of one gold kada weighing 100 grams and one gold chain weighing 157 grams (hereinafter “*the detained jewellery*”) which were detained by the Customs Department *vide* Detention Receipt dated 7<sup>th</sup> November, 2024.
3. The case of the Petitioner is that he is an Indian passport holder working in Saudi Arabia. The Petitioner had travelled back to India on 7<sup>th</sup> November, 2024 and upon his arrival at the Indira Gandhi International Airport, New Delhi, he was intercepted by the Customs Department and the detained jewellery was seized. It is stated that till date no Show Cause Notice has been issued to the Petitioner and no personal hearing has been granted to the Petitioner.
4. On the last date *i.e.*, 8<sup>th</sup> August, 2025, the Court had issued notice and



directed the Id. SSC to seek instructions if any oral Show Cause Notice was issued to the Petitioner and whether there is an oral waiver of the same. The Id. SSC was also directed to place on record the relevant documents in respect of the same.

5. Mr. Singla, Id. SSC has sought instructions and has also placed on record certain documents including the detention receipts. The same would show that a standard pre-printed waiver was signed by the Petitioner on 7<sup>th</sup> November, 2024. The relevant portion of the same reads as under:

*“It is humbly requested that said detained goods may please be allowed for RELEASE/RE-EXPORT. I regret my mistake of opting for Green Channel and further request you to please take a lenient view in the matter. I submit that my acts of omission and commission have been explained to me and I have understood the same. I have also been briefed about gist of charges/allegations against me arising out of my omission/commissions and the repercussions thereof. I request that my case may be decided on merit and I do not want any written Show Cause Notice and/or Personal Hearing in the matter as an oral SCN has been received by me.”*

6. A notice dated 24<sup>th</sup> April, 2025 granting personal hearing has also been placed on record whereby the personal hearing was fixed on three dates *i.e.*, 13<sup>th</sup> May, 2025, 15<sup>th</sup> May, 2025 & 19<sup>th</sup> May, 2025.

7. Ld. Counsel for the Petitioner submits that the personal hearing notice has not been received by the Petitioner.

8. In response, Mr. Singla, Id. SSC submits that the personal hearing notice may have been dispatched as the said notice records the DIN number.

9. Heard Id. Counsel for the parties. It is a fact that no Order-in-Original has been passed in the present case. The Court has also perused the documents



placed on record by the parties. A perusal of the personal hearing notice itself shows that it appears to have been sent only at the mailing address of the Petitioner and it is not clear as to through what mode it has been served. Further, this Court has held repeatedly that standard pre-printed waivers of Show Cause Notice and personal hearing would not be valid in law as held in *Amit Kumar v. The Commissioner of Customs, 2025:DHC:751- DB*. The relevant portion of the said order 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.”

10. 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.**

11. Accordingly, in view of the settled law discussed above the detained jewellery would be liable to be released on this ground itself. However, there is another issue which is required to be considered *i.e.*, non issuance of the show cause notice within the prescribed period under the Act.

12. Once the goods are detained, it is mandatory to issue a show cause notice and afford a personal hearing to the Petitioner. The time prescribed under Section 110 of Act, is a period of six months. However, subject to complying with the requirements therein, a further extension for a period of six months can be taken by the Customs Department for issuing the show cause notice. In this case, the six months period has already expired and no intimation has been placed on record stating that the further period of six months has been availed of by the Department.

13. Under these circumstances, the detention of the Petitioner's jewellery is set aside. The Customs Department shall release the detained jewellery of the Petitioner within a period of two weeks from today, subject to the payment of



warehousing charges as on the date of detention.

14. The Petitioner shall appear before the Customs Authorities on 03<sup>rd</sup> September, 2025. In respect of the same, let the Petitioner contact the following officer who shall assist the Petitioner with the requisite procedure:

***Officer: Mr. Sandeep Lamba, Superintendent, Customs***  
***Address: Office of Commissioner, Customs, IGI Airport,***  
***Terminal - 3, New Delhi***  
***Mob. No: 7405345000***  
***Email: [igilegaldelhi@gmail.com](mailto:igilegaldelhi@gmail.com)***

15. The petition is disposed of in the above terms. Pending applications, if any, the same are also disposed of.

**PRATHIBA M. SINGH**  
**JUDGE**

**SHAIL JAIN**  
**JUDGE**

**AUGUST 18, 2025**  
*Sk/msh*