



\$~33

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

*Date of decision: 19<sup>th</sup> May, 2025*

+ **W.P.(C) 198/2025 and CM APPL. No.8813/2025**

**QAMAR JAHAN**

.....Petitioner

Through: Mr. Ashish Panday, Mr. Priyanshu  
Upadhyay and Mr. Ajay Singh,  
Advocates

versus

**UNION OF INDIA, REPRESENTED BY SECRETARY,  
MINISTRY OF FINANCE & ORS.**

.....Respondents

Through: Mr N Venkatraman ASG, Mr  
Shubham Tyagi SSC, Ms Navruti ojha  
Mr. Jagdish Chandra, CGSC with Mr.  
Shubham Kumar Mishra, Advocate  
for UOI.  
Mr. Harpreet Singh, Senior standing  
Counsel along with Ms. Suhani  
Mathur and Mr. Jai Ahuja, Advocates  
Ms.Anjali Ralhan, Assistant Manager,  
CWC

**CORAM:**

**JUSTICE PRATHIBA M. SINGH**

**JUSTICE RAJNEESH KUMAR GUPTA**

**Prathiba M. Singh, J. (Oral)**

1. This hearing has been done through hybrid mode.
2. There are a batch of petitions listed today, raising various issues *qua* the procedure for detention of goods by the Customs Department belonging to passengers travelling to India, of both Indian and foreign origin, which are being dealt with by the Court.



### **Background**

3. On 13th January, 2025, this Court had observed that various travellers, tourists, and Indian citizens coming back from foreign countries were being intercepted and various items, which they were wearing, including jewellery etc., were being detained by the Customs Department. After considering the Baggage Rules, 2016 (hereinafter “*the Baggage Rules*”) and other relevant documents, including the Indian Customs Declaration Form, the Court was of the view that the Baggage Rules would have to be re-looked by the Central Board of Indirect Taxes and Customs (hereinafter “*CBIC*”). Accordingly, the Court had directed the CBIC to reconsider the Baggage Rules.

4. It is also noted that, the Court, while considering various petitions, has been conscious of several other issues which would also be required to be reconsidered by the concerned authorities including CBIC and Customs Department.

5. On 27th March, 2025, further to the order dated 13th January, 2025, Ms. Mayusha Goyal, Additional Commissioner for Customs at the IGI Airport had appeared along with Mr. Maharishi Singhal, Assistant Commissioner, Mr. Nitin Raj, Mr. Sunil Kumar, Mr. Sandeep Lakra & Mr. Ravinder Singh, Superintendents, Mr. Rohit, Mr. Ajay Pratap, Mr. Avinash Yadav & Mr. Umesh Kumar, Inspectors. The Court, upon querying the said officers, had noted the stand of the Customs Department on the various issues as under:

*“10. The Court has queried Ms. Goyal on the issues highlighted by the Court in its various orders. The ld. Counsels appearing for the Petitioners and the Customs Department have also been heard on some of the aspects.*



*11. A short affidavit dated 26th March, 2025 has been handed over on behalf of Respondent No. 1 - Union of India and the same is taken on record. The submission on behalf of the Customs Department is that a detailed stakeholder consultation is currently being carried out by the CBIC. As part of the same, inter-ministerial meetings have been held on 7th February, 2025 and 21st February, 2025 with the Ministry of Tourism, Ministry of Culture, Ministry of External Affairs, Directorate General of Foreign Trade and other relevant departments/ministries. Inputs are also stated to have been sought from various Customs formations at major airports as also the Directorate of Revenue Intelligence.*

*12. Accordingly, the stand of the Customs Department is that insofar as amendment to the Baggage Rules is concerned, the same would be undertaken after obtaining comments and inputs from all the stakeholders and some more time will be required for the same. In the meantime however certain measures are being implemented.”*

6. The Court was also informed that taking into consideration various orders which have been passed by this Court, some interim measures would be required to be taken on some of the issues as observed by the Court, including on waiver of show cause notice etc. Thereafter, considering the submissions on behalf of the Customs Department, the Court had passed the following directions:

*“20. Since the CBIC and Customs Department is now seeking further time to amend the Baggage Rules and to place the same before this Court, a sensitisation initiative shall be carried out by the Customs Department to all Customs officials. The Customs officials shall ensure that old jewellery of even Indian*



*travellers, personal jewellery which is being worn by the travellers during travel or used jewellery is not unnecessarily detained in a routine manner, so as to ensure that no harassment is caused to travellers coming to India.*

*21. If the Baggage Rules cannot be amended by the next date of hearing, a Standard Operating Procedure (hereinafter “SOP”) shall be placed on record by the next date which shall be followed by the Customs Department till the time the Baggage Rules are amended.*

*22. Let the said SOP cover all the issues which have been highlighted by this Court in the present petition as also any other issue which has a material bearing on the matter under consideration. In addition to the above, let the CBIC, Customs Department and other stakeholders also consider the following:*

*(i) The manner in which the statements under Section 108 of the Act are recorded in standard form from all passengers;*

*(ii) The procedures for appraisal and for disposal of the items which are detained, also require to be simplified and re-looked.*

*23. Let the Respondents file a further affidavit by the next date of hearing in terms of the directions passed today. The draft SOP as directed above be also placed before the Court.”*

### **Standard Operating Procedure**

7. Today, Mr. N. Venkataraman, Id. Additional Solicitor General has appeared today on behalf of the Union of India and the Customs Department. A report / short affidavit of Sh. Dharmvir Singh, working as Assistant



Commissioner, IGI Airport, New Delhi has been placed on record by Id. ASG, along with a draft Standard Operating Procedure (hereinafter “*draft SOP*”), in respect of some of the issues which have been raised from time to time.

8. The Id. ASG has taken the Court through the draft SOP and the same has been perused by the Court. After hearing Id. ASG and Panel counsels appearing for the Customs along with some of the officials, as also Id. Counsels appearing for the Petitioners, the draft SOP, as placed on record by the Id. ASG, is approved with certain modifications, as under:

### **Approved SOP**

*“A. The detention receipts issued at the Green and Red Channel shall -*

*(I) necessarily contain the details of the passenger(s) such as Name (in full), Phone Number(s) including WhatsApp Number, E-mail address, Postal Address - local and/or foreign as applicable and clear signature of the passenger(s),*

*(II) clearly mention the number of the item seized and the net weight of the said items seized*

*(III) mention the Flight No., date and time of seizure,*

*(IV) the Names and signatures of the passengers*

*(V) mention clearly the name and designation of the Customs officer making the seizure.*

*B. Copy of the Passport, Boarding Pass would also be collected along with the Detention Receipt.*

*C. Images of the seized items shall be taken in the presence of the passenger(s) and the same shall be shared with the passenger(s) and one copy shall be retained by the Section.*

*D. The Customs officers shall also explain clearly*



to the passenger(s) the process of detention, appraisalment and the time that will be taken to conclude the proceedings.

*E. Notice under section 124 w.r.t the grounds of confiscation or on imposition of penalty shall usually be written but if the passenger does not wish to receive a written notice, then the same may be oral and may be waived only at the request of the passenger or any other accompanying person. **The standard pre-printed waiver form shall be done away with and the concerned Customs Officer shall specifically ask the passenger if the show cause notice is to be waived or not. If the passenger chooses for waiver of show cause notice, the same shall be written by hand by the said officer and signed by the said officer and the passenger. The same shall be handed over to the passenger along with the detention receipt. The name of the Customs Official who is taking the said oral waiver along with designation shall be mentioned, so that the verification from the said official would be possible in future, if required.***

*F. In any event, even if Show cause notice is waived, personal hearing shall not be waived and a notice would be liable to be served for personal hearing. In cases where the passenger(s) have requested for waiver of written Show Cause Notice, the Customs officer posted at Warehouse must invariably issue letter for Personal Hearing to the passenger (with DIN) which is to be delivered either by hand, if the passenger(s) is present, or by WhatsApp, Post and email.*

*G. The passenger must be given an opportunity of making representations, preferably in writing. The submission of the Passenger(s) or their appointed Authorized Representative, must be recorded in their*



*own handwriting at the time of Personal Hearing which must also include the process of appraisal of the detained goods.*

*H. The Order-in-Original should be issued at the earliest and the same should be delivered to the address - postal, e-mail id as well as the WhatsApp number - provided by the Passenger(s), with a clear note that the passenger is free to challenge the same within 90 days (60 days + 30 days), mentioning the email address of the concerned Appellate Forum. The name of the officer concerned who is passing the order shall also be mentioned in the full along with the designation.*

*I. The request of the passenger(s) for early appraisal or any other issue should be considered keeping a humane perspective. **At the time of appraisal insistence for payment of storage/warehousing charges shall not be done. If after appraisal, the passenger seeks release upon payment of duty, then the storage/warehousing charges shall be collected.***

*J. Appropriate sensitization initiatives may be undertaken regarding the Baggage Rules and other relating provisions, especially relating to the availability of the Export Certificates.”*

9. In addition to the above SOP, this Court is of the opinion that some of the areas that still need to be addressed are:

- (i) the permissible weight of used gold jewellery that can be worn by an Indian passenger, who travels for a short duration to foreign countries and returns to India;
- (ii) the used personal jewellery that can be carried by Foreign passenger/s or eligible passenger who travels to India;



(iii) permissible weight of gold or jewellery that is permissible for import through Red/Green channel for different categories of passengers;

(iv) procedure for issuance of show cause notice within the prescribed period under the Customs Act, 1962 and timely disposal of the same.

10. Mr. N. Venkataraman, Id. ASG, seeks further time to revert on the above issues as also for amendment to the Baggage Rules which is stated to be still pending consideration before the CBIC.

11. Though this Court was inclined to issue certain interim directions, even on these aspects, as there are several matter being filed before the Court on a daily basis, however, it is submitted by the Id. ASG that in order to avoid any further confusion and bring certainty to the above issues, a final policy decision would be placed before the Court for approval. This, as per the Id. ASG would require some time. Considering the nature of the issues at hand, the request is acceded to.

12. It is made clear that on the next date of hearing, if no policy *qua* the amendments to the Baggage Rules as also in respect of the other issues under consideration, is placed before the Court, certain interim directions would be passed in terms of the consideration under Rule 5 and Rule 2(vi) of the Baggage Rules, bearing in mind the anomalies *qua* different categories of passengers as also the change in the price of gold over the years.

13. In the facts of this case, on 13th January, 2025, the Court had observed as under:

*“2. The present petition has been filed under Article 226 and 227 of the Constitution of India, inter alia,*





*challenging the Order-in-Original dated 6th February, 2024, and Order-in-Appeal dated 23rd September, 2024, passed by the Joint Commissioner of Customs and the Commissioner of Customs (Appeals), respectively.*

*3. Vide impugned Order-in-Original the adjudicating authority, inter alia, ordered confiscation of two gold kadas and one gold chain of the Petitioner. Further, the Petitioner was also directed to pay a redemption fine of Rs. 75,000/- and a personal penalty of Rs. 1,10,000/- in terms of the Customs Act, 1962. The Petitioner appealed the said Order-in-Original and on 24th September, 2024, the Commissioner of Customs (Appeals) dismissed the said appeal filed by the Petitioner.”*

14. On the last date of hearing i.e., 27th March, 2025, the Court had passed the following directions:

*“24. In the facts of this case the concerned Revision Authority is directed to take a decision within one month.*

*25. The order passed in the revision shall be placed before the Court on the next date.”*

15. Today, the Id. Counsel for the Petitioner submits that the Revision Authority has not taken any decision in the matter. In view thereof, the gold items being two gold kadas and one gold chain, shall be released to the Petitioner within a period of four weeks.

16. Considering the facts of the case, since the Petitioner has already succeeded till the Commissioner (Appeals), the storage charges are waived of in this matter.

17. At this stage, the Court has been informed that despite the orders of this Court directing waiver of storage charges, the Central Warehousing



Corporation (hereinafter “CWC”), continues to insist on payment of the said charges whenever the respective Petitioners approach for release of their goods. The grievances which have been raised against CWC are to the following effect:

- (i) that the storage charges are not waived even when specific orders are passed by this Court;
- (ii) that the release of the goods is not done within the time period stipulated by the Court.

18. This Court had directed on the last date in the batch of petitions that a senior official from the CWC should be present. Ms. Anjali Ralhan, Assistant Manager, CWC is present today pursuant to directions of the Court.

19. The concerned official has been sensitized about the complete compliance of the orders being passed by this Court, failing which stringent action shall be liable to be taken against the concerned personnel/management of CWC. Ms. Ralhan has assured the Court that the orders passed would be fully complied with.

20. The Petitioner may collect the detained goods through an Authorised Representative, in which case, the detained goods shall be released after receiving a proper email from the Petitioner or some form of communication that the Petitioner has no objection to the same being released to the concerned Authorised Representative.

21. Renotify on 23<sup>rd</sup> July, 2025.

22. Registry is directed to communicate this order to the OSD (Legal), CBIC through email (Osd-legal@gov.in) for necessary information and compliance. Let Mr. Harpreet Singh, Id. Sr. Standing Counsel, also communicate this order to the OSD (Legal), CBIC for necessary information



2025:DHC:4182-DB



and compliance.

23. This shall be treated as a part-heard matter.

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

**RAJNEESH KUMAR GUPTA**  
**JUDGE**

**MAY 19, 2025/SV/msh**