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

Date of decision: 19th November, 2025

Uploaded on: 22nd November, 2025

+ **W.P.(C) 15791/2025**

GULFAMPetitioner

Through: Ms. Richa Kumari, Adv.

versus

COMMISSIONER OF CUSTOMSRespondent

Through: Ms. Anushree Narain, SSC.

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- Mr. Gulfam under Article 226 of the Constitution of India, *inter alia*, seeking release of the gold bar weighing 117 grams (*hereinafter*, 'gold bar') which was detained by the Customs Department.
3. A brief background of the Petitioner's case is that the Petitioner was working in Saudi Arabia. He arrived in India on 5th January, 2023. Upon his arrival at the Indira Gandhi International Airport New Delhi, the gold bar was seized by the Customs Department *vide* detention receipt dated 5th January, 2023.
4. The case of the Petitioner is that after the detention receipt was issued, no Show Cause Notice has been issued to the Petitioner, and no personal hearing has been granted. Thus, the Petitioner is seeking release of the gold



bar as continued detention of the same would be contrary to law, in view of the recent decision of the Supreme Court in *Civil Appeal No.3489/2024* titled *Union of India and Ors. v. Jatin Ahuja* dated 11th September, 2025. The relevant portion of the said judgment reads 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.**

5. On behalf of the Respondent, Ms. Narain, Id. SSC has tendered the statement of the Petitioner, under Section 108 of the Customs Act, 1962, which had been recorded upon Petitioner's arrival in India. The same is taken on record. The statement of the Petitioner reads as under



*“On being asked I, **Gulfam (D.O.B.-02.01.2000)** state that I have appeared before Air Customs Superintendent on 05.01.2023 to tender my statement under Section 108 of the Customs Act, 1962 In respect of above mentioned items recovered from my possession. On being asked, I state that I was intercepted by the Customs officer after I had crossed the Green Channel and the above said items were recovered during the X-Ray and DFMD. On being asked, **I state that aforesaid items does not belongs to me as I have not purchased the said goods mentioned in the table above.** that I admit my omission and commission on my part; that I am well aware of the fact that there is Customs duty on import of above Goods; that I will be agreeing with the description, quantity and value to be assessed by the department, and I am ready to pay the Customs duty along with fine and penalty as applicable. I also do not need any Show Cause Notice or personal hearing in the matter. I have tendered my statement true and correct and understood the same in vernacular. I have tendered the above statement without any duress, pressure or threat.”*

6. Ld. SSC on behalf of the Respondent submits that the Petitioner has clearly stated that the gold bar does not belong to him, and that he did not purchase the gold bar.
7. On the strength of the above statement, it is argued that the gold bar is liable for confiscation, unless the Petitioner shows any documents to support the possession of the gold bar and ownership of the same.
8. Ld. SSC also submits that the Petitioner may appear before the Customs Department, and after considering the matter a proper order shall be passed.
9. It is further submitted that the gold bar consists of foreign marking, and if the Petitioner states that the same does not belong to him, release of the gold bar to the Petitioner would be contrary to law.



10. Statements under Section 108 would not be admissible in evidence but the said statement at least reveals that a factual inquiry would be required to be undertaken in respect of the contents of the statement as also if the gold bar bears foreign origin markings. These facts cannot be gone into in the present writ petition. Under these circumstances, let the Petitioner appear before the Customs Department on 22nd December, 2025 either physically or through his Authorised Representative with a proper authorisation.

11. In case, the Petitioner is not physically appearing, he shall join the proceedings virtually. After verifying his credentials and affording a hearing the Customs Department shall pass an order in accordance with law.

12. While passing the order, it shall be borne in mind that under Section 110 of the Customs Act, 1962, if the SCN has not been issued, the goods are liable to be returned to the person from whose possession they were seized, in terms of the decision in *Jatin Ahuja (supra)*.

13. In addition, the legal position in terms of *Amit Kumar v. The Commissioner of Customs, 2025:DHC:751- DB* shall also be considered as no SCN has been issued to the Petitioner nor any personal hearing has been granted, and a pre-printed waiver of SCN and hearing has been relied upon by the Customs Department.

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

***Mr. Mukesh Gulia, Superintendent, Legal
Office of Commissioner, Customs
IGI Airports, T-3, New Delhi
Email id: igilegaldelhi@gmail.com***



2025:DHC:10313-DB



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

**PRATHIBA M. SINGH
JUDGE**

**SHAIL JAIN
JUDGE**

NOVEMBER 19, 2025

dj/sm