



\$~64

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

Date of Decision: 20th November, 2025

Uploaded on: 24th November, 2025

+

W.P.(C) 16722/2025

NADEEM AHMAD

.....Petitioner

Through: Dr. Ashutosh & Ms. Fatima, Advs.

versus

COMMISSIONER OF CUSTOMS

.....Respondent

Through: Mr. Akshay Amritanshu, SSC with
Ms. Drishti Rawal, Mr. Mayur Goyal,
Mr. Sarthak Srivastava, Advs.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE SAURABH BANERJEE

JUDGMENT

Prathiba M. Singh, J.

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner- Nadeem Ahmed under Articles 226 and 227 of the Constitution of India, *inter alia*, seeking release of one gold bar weighing 117 grams (*hereinafter*, 'gold bar') which was detained by the Customs Department *vide* detention receipt No.2162 dated 7th July, 2023.
3. A brief background of the Petitioner's case is that, the Petitioner is an Indian Passport holder bearing Passport No. T0953826 who had travelled back to India on 7th July, 2023. Upon his arrival at the Indira Gandhi International Airport, New Delhi, he was intercepted by the concerned



officials of the Customs Department and the gold bar was detained.

4. The case of the Petitioner is that after the detention of the gold bar, no Show Cause Notice (*hereinafter* 'SCN') has been issued to the Petitioner under Section 110 of the Customs Act, 1962 (*hereinafter*, 'the Act').

5. The Id. Counsel for the Petitioner relies upon the decision of the Supreme Court in *Union of India & Anr. v. Jatin Ahuja, Civil Appeal No. 3489/2024* dated 11th September, 2025.

6. Mr. Akshay Amritanshu, Id. Senior Standing Counsel also submits that no SCN has been issued in this matter.

7. In terms of Section 110 of the Act, the SCN has to be issued within a period of six months or within the extended period of six months as prescribed under Section 110. The said provision is set out below:

“Section 110. Seizure of goods, documents, things

XXX

*(2) Where any goods are seized under sub-section (1) and no notice in respect thereof is given under clause (a) of section 124 within six months of the seizure of the goods, **the goods shall be returned to the person from whose possession they were seized:***

Provided that the Principal Commissioner of Customs or Commissioner of Customs may, for reasons to be recorded in writing, extend such period to a further period not exceeding six months and inform the person from whom such goods were seized before the expiry of the period so specified:

Provided further that where any order for provisional release of the seized goods has been passed under section 110A, the specified period of six months shall not apply.”



8. Thus, continued detention of the gold items would be contrary to law in view of the recent decision of the Supreme Court in *Jatin Ahuja (Supra)*, 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.**

9. In terms of the above decision in *Jatin Ahuja (Supra)*, if the SCN has not been issued, the goods are liable to be released to the concerned passenger. Considering that the detained item involved here is a gold bar, the same is to be released to the Petitioner, however, subject to the following terms:



- i) The Customs Duty applicable shall be paid by the Petitioner;
 - ii) The Warehousing Charges shall also be paid by the Petitioner;
 - iii) If the Petitioner does not appear himself, his credentials shall be verified after the Petitioner appears virtually.
 - vi) No redemption fine or penalty shall be chargeable.
10. The Petitioner/authorised representative shall appear before the Customs Department on 8th December, 2025.
11. 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***
12. The present petition is disposed of in these terms. Pending applications, if any, are also disposed of.

**PRATHIBA M. SINGH
JUDGE**

**SAURABH BANERJEE
JUDGE**

NOVEMBER 20, 2025

Rahul/sm