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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
*Date of Decision: 25<sup>th</sup> August, 2025*

+ **W.P.(C) 12741/2025**  
RAJVIR KAUR .....Petitioner  
Through: Mr. Harsh Trikha, Adv.  
versus

COMMISSIONER OF CUSTOM & ANR. ....Respondents  
Through: Mr. Shubham Tyagi, SSC with Ms.  
Navruti Ojha, Adv. (M:9650049869)

69 AND  
+ **W.P.(C) 12816/2025 & CM APPL. 52314/2025**  
JUJHAR SINGH .....Petitioner  
Through: Mr. Harsh Trikha, Adv.  
versus

COMMISSIONER OF CUSTOM & ANR. ....Respondents  
Through: Mr. Shubham Tyagi, SSC with Ms.  
Navruti Ojha, Adv.

**CORAM:**  
**JUSTICE PRATHIBA M. SINGH**  
**JUSTICE SHAIL JAIN**

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

1. This hearing has been done through hybrid mode.

**CM APPL. 52314/2025 (for exemption) in W.P.(C) 12816/2025**

2. Allowed, subject to all just exceptions. Application is disposed of.

**W.P.(C) 12741/2025**

**W.P.(C) 12816/2025**

3. The present petitions have been filed by the Petitioners- Ms. Rajvir Kaur and Mr. Jujhar Singh under Articles 226 and 227 of the Constitution of India, *inter alia*, assailing the Orders-in-Original dated 3rd June, 2024 in **W.P.(C) 12741/2025** and 5th June, 2024 in **W.P.(C) 12816/2025** (hereinafter,



*'impugned orders'*).

4. The Petitioners *i.e.*, husband and wife, are British citizens and Overseas Citizen of India card holders. They challenge the impugned orders passed by Office of the Commissioner of Customs, IGI Airport, New Delhi. The case of the Petitioners is that they were travelling together with their two children on 2<sup>nd</sup> April, 2024 from London to New Delhi to attend a wedding in the family. Upon arrival at the IGI Airport, New Delhi, the Petitioners were intercepted by the concerned officials of the Customs Department and the following gold items were seized from the Petitioners:

- Sixteen gold bangles, collectively weighing 212 grams in ***W.P.(C) 12741/2025***
- Two gold *kadas*, collectively weighing 200 grams in ***W.P.(C) 12816/2025***

5. No Show Cause Notice was issued to the Petitioners on the ground that the same was waived by the Petitioners. The impugned orders, thereafter, permitted re-export of the goods in the following terms.

**Order in Original in W.P.(C) 12741/2025**

**“ORDER**

(i) *I deny the ‘Free Allowance’ if any admissible to the passenger Ms. Rajvir Kaur for not declaring the detained goods to the Proper Officer at Red Channel as well to the Customs Officer at Green Channel who intercepted her and recovered the detained goods from her;*

ii) *I declare the passenger, Ms. Rajvir Kaur as “an ineligible Passenger” for the purpose of the Notification No. 50/2017-Cus dated 30.06.2017 (as amended) read with Baggage Rules, 2016 (as amended);*

iii) *I order confiscation of Sixteen gold bangles*



*having average purity 947 with gross and net weight 212 grams having Assessable value Rs.12,92,377/- recovered from the Pax under Section 111(d), 111(j) & 111(m) of the Customs Act, 1962;*

*iv) I give an option to redeem the goods confiscated above, on payment of a fine of Rs. 1,95,000/- (Rupees One Lakh and Ninety-Five thousand Only) under Section 125 of Customs Act, 1962 and allowed the same for re-export from India only by the Pax since the passenger is a United Kingdom of Great Britain and Northern Ireland national. The redemption is to be allowed after the completion of legal formalities in this regard and also fulfilment of any regulatory clearances/ approvals required. The offer of redemption, if accepted, shall be subject to condition that the Pax shall not dispute the identity and valuation of the detained goods. The offer of redemption shall cease after 'One Hundred Twenty Days' from date of the receipt of this order;*

*v) I also impose a penalty of Rs. 1,30,000/- (Rupees One lakh and Thirty thousand only) on the passenger Ms. Rajvir Kaur under Section 112 (a) & 112 (b) of the Customs Act, 1962.”*

**Order in Original in W.P.(C) 12816/2025**

**ORDER**

*i) I deny the 'Free Allowance' if any admissible to the passenger, Jujhar Singh for the various acts of commission and omission;*

*ii) I declare the passenger, Jujhar Singh is “an ineligible Passenger” for the purpose of the Notification No. 50/2017-Cus dated 30.06.2017 (as amended ) read with Baggage Rules, 2016 (as amended);*

*iii) I order confiscation of “Two gold kadas having purity 991, weight 200 grams, valued at Rs.*



**12,70,950/-” recovered from the Pax Jujhar Singh and detained vide DR No. DR /INDEL4/ 02.04.2024/ 35149 dated 02.04.2024, under Section under Section 111(d), 111(j) & 111(m) of the Customs Act, 1962;**

*iv) I give an option to redeem the goods confiscated above, on payment of a fine of Rs. 1,90,000/- (Rs One Lakh Ninety Thousand Only) under Section 125 of Customs Act, 1962 and allowed the same for re-export from India only by the Pax since the passenger is a **Great Britain national** having Great Britain Passport No. **136978234**. The redemption is to be allowed after the completion of legal formalities in this regard and also fulfillment of any regulatory clearances/ approvals required. The offer of redemption, if accepted, shall be subject to condition that the Pax shall not dispute the identity and valuation of the detained goods. The offer of redemption shall cease after ‘One Hundred Twenty Days’ from date of the receipt of this order;*

*v) I also impose a penalty of Rs.1,25,000/- (Rs One Lakh Twenty Five Thousand Only) on the passenger **Jujhar Singh** under Section 112(a) & 112(b) of the Customs Act, 1962.”*

6. Submission on behalf of the Petitioners is that the above orders are not being given effect to on the ground that an appeal has been preferred by the Customs Department, however, no notice of appeal has been received by the Petitioners and no personal hearing has been fixed in the appeal.

7. Mr. Shubham Tyagi, Id. SSC appearing for the Customs Department has sought instructions and submits that the Customs Department has challenged the impugned orders in the appeal. In one matter *i.e. W.P.(C) 12816/2025*, it is seen that the appeal has been filed way back in August, 2024



by the Customs Department, however, no decision has been taken till date and no date for personal hearing has been fixed.

8. Heard. Both the Petitioners are British citizens and they are ‘eligible passengers’ in terms of the Baggage Rules, 2016. In view of the decision in ***Directorate Of Revenue Intelligence vs Ms. Pushpa Lekhumal Tolani, 2017 (16) SCC 93*** where the Court has come to the conclusion to the effect that if the gold jewelry are *personal effects* and the same would not be seized. The relevant paragraphs of the said order read as under:

*“13. Insofar as the question of violation of the provisions of the Act is concerned, we are of the opinion that the respondent herein did not violate the provisions of Section 77 of the Act since the necessary declaration was made by the respondent while passing through the green channel. Such declarations are deemed to be implicit and devised with a view to facilitate expeditious and smooth clearance of the passenger. Further, as per the International Convention on the Simplification and Harmonisation of Customs Procedures (Kyoto 18-5-1973), a passenger going through the green channel is itself a declaration that he has no dutiable or prohibited articles. **Further, a harmonious reading of Rule 7 of the Baggage Rules, 1998 read with Appendix E (2) (quoted above), the respondent was not carrying any dutiable goods because the goods were the bona fide jewellery of the respondent for her personal use and was intended to be taken out of India.** Also, with regard to the proximity of purchase of jewellery, all the jewellery was not purchased a few days before the departure of the respondent from UK, a large number of items had been in use for a long period. It did not make any difference whether the jewellery is new or used. There is also no relevance of the argument that since all the jewellery is to be taken out of India, it was, therefore, deliberately brought to India for taking it to*



**Singapore. Foreign tourists are allowed to bring into India jewellery even of substantial value provided it is meant to be taken out of India with them and it is a prerequisite at the time of making endorsements on the passport. Therefore, bringing jewellery into India for taking it out with the passenger is permissible and is not liable to any import duty.**

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15. [...] Also, from the present facts and circumstances of the case, it cannot be inferred that the jewellery was meant for import into India on the basis of return ticket which was found to be in the possession of the respondent. Moreover, we cannot ignore the contention of the respondent that her parents at the relevant time were in Indonesia and she had plans of proceeding to Indonesia. **Some of the jewellery items purchased by the respondent were for her personal use and some were intended to be left with her parents in Indonesia. The High Court has rightly held that when she brought jewellery of a huge amount into the country, the respondent did not seem to have the intention to smuggle the jewellery into India and to sell it off. Even on the examination of the jewellery for costing purposes, it has come out to be of Rs 25 lakhs and not Rs 1.27 crores as per DRI. The High Court was right in holding that it is not the intention of the Board to verify the newness of every product which a traveller brings with him as his personal effect. It is quite reasonable that a traveller may make purchases of his personal effects before embarking on a tour to India. It could be of any personal effect including jewellery. Therefore, its newness is of no consequence. The expression “new goods” in their original packing has to be understood in a pragmatic way.”**



9. There are sufficient photographs, which have been placed on record to show that the gold items, which have been seized by the Customs Department, have been worn by the Petitioners in the past while they were on religious trips and other travels to India.

10. Moreover, the Court also notices that in the impugned order in **W.P. (C) 12741/2025**, the following has been recorded by the Customs Department:

*“3. The Pax tendered her **statement on 02.04.2024** under Section 108 of the Customs Act, 1962 in which she inter alia stated that she was intercepted by the Customs Officer after she had crossed the Green Channel and during the DFMD and Xrav of her baggage the above said items were recovered from her; that the above mentioned **recovered items belongs to her**; that she does not have its receipts and bills; that she admits that she was aware of the fact that there is Customs duty on the value above baggage allowance in India; that she would be agreeing with description and quantity and value assessed by the department and was ready to pay the Customs duty along with fine and penalty as applicable; that **she does not need any Show Cause Notice or Personal Hearing in the matter**; that she had tendered her statement true and correct and understood the same. She further stated that she had tendered her statement without any duress, pressure or threat.”*

11. A perusal of the above would show that it is recorded in the said order that both the SCN and personal hearing have been waived by the Petitioner. Considering that this is a standard pre-printed waiver, which are signed by tourists and other travelers in India, this would be contrary to law.

12. Moreover, non-issuance of SCN and non-grant of personal hearing in this matter violates the principles of natural justice completely. As per



Section 124 of the Customs Act, 1962, even if some benefit of doubt is to be given to the Customs Department that an oral Show Cause Notice was served to the Petitioners, a reasonable opportunity of being heard is absolutely mandatory. This has been held so in the case of *Amit Kumar v. The Commissioner of Customs, 2025:DHC:751- DB*. The Court has in the said decision has observed 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.”*

13. Under these circumstances, in fact, the detention itself is contrary to law as the impugned orders have been passed without affording a hearing to the Petitioners.

14. The appeal having been filed way back in August, 2024, till now no hearing has been fixed and no notice has been issued to the Petitioner. Under these circumstances, since the impugned order itself is unsustainable as being in violation of the principles of Natural Justice, the appeal is rendered infructuous.

15. However, considering the fact that the impugned orders have been passed way back in June, 2024 and the Petitioners have chosen to challenge the same, almost one year later, the impugned orders having permitted the redemption of the seized goods for the purpose of re-export, the Court is inclined to implement the impugned orders. Accordingly, the following directions are being issued:

- (i) The fine of Rs.1,95,000/- and penalty of Rs.1,30,000/- in **W.P. (C) 12741/2025** and fine of Rs.1,90,000/- and penalty of Rs.1,25,000/- in **W.P. (C) 12816/2025** be paid by the Petitioners, in terms of the impugned orders dated 3rd June, 2024 and 5th June, 2024.
- (ii) Upon the payment of the said amounts, all the seized items shall



be released to the Petitioners, for the purposes of re-export.

(iii) Under these circumstances, the warehouse charges are also waived.

(iv) The Petitioners shall appear before the Customs Department on 8<sup>th</sup> September, 2025. Let the Petitioner contact the following nodal officer who shall assist the Petitioner with 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)**

16. The present petitions are allowed and disposed of in the above terms. Pending applications, if any, are also disposed of.

17. *Dasti.*

**PRATHIBA M. SINGH  
JUDGE**

**SHAIL JAIN  
JUDGE**

**AUGUST 25, 2025/dk/ck**