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

Date of decision: 26th November, 2025

Uploaded on: 1st December, 2025

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W.P.(C) 10380/2025

SANCHIT GUPTA

.....Petitioner

Through: Ms. Richa Kumar , Mr. Pawan, Mr. Yatin Bhutani, Mr. Tarun Gulia, Mr. Aman Agarwal and Mr. Prashant Chaudhary, Advs.

versus

COMMISSIONER OF CUSTOMS

.....Respondent

Through: Mr. Akash Verma, Sr. Standing Counsel, with Ms. Aanchal Uppal, Adv. (M: 9697980007)

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AND

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W.P.(C) 10386/2025

SAHAJ DEWAN

.....Petitioner

Through: Ms. Richa Kumar , Mr. Pawan, Mr. Yatin Bhutani, Mr. Tarun Gulia, Mr. Aman Agarwal and Mr. Prashant Chaudhary, Advs.

versus

COMMISSIONER OF CUSTOMS

.....Respondent

Through: Mr. Akash Verma, Sr. Standing Counsel, with Ms. Aanchal Uppal, Adv.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RENU BHATNAGAR

JUDGMENT

Prathiba M. Singh, J.

1. This hearing has been done through hybrid mode.
2. These matters are being taken up today, as 25th November 2025 was declared a holiday on account of 'Guru Tegh Bahadur's Martyrdom Day'.



3. The present petitions have been filed by the Petitioners under Article 226 of the Constitution of India, *inter alia*, assailing the detention of their personal effects consisting of one gold chain and one gold kada weighing a total of 200 grams (*hereinafter, 'the gold item'*), which were detained by the Customs Department *vide* detention receipt bearing no. 001266 dated 12th February, 2023.

4. A brief background of the Petitioners' case is that, Petitioners are two friends who had travelled from Delhi to Dubai for business purposes and were returning to India. Upon their arrival at the Indira Gandhi International Airport, New Delhi, the gold items, which are stated to be old jewellery being worn by them, were seized by the Customs Department.

5. On the previous date of hearing, *i.e.*, 21st July, 2025, notice was issued in these petitions and the *Id.* Standing Counsel for the Customs Department was directed to seek instructions in the matter.

6. Pursuant there to, on 18th August, 2025, the Court had directed the gold items to be produced before the Court in the following terms:

"5.Today, Id. Standing Counsel for the Respondent - Customs Department, under instructions, submits that no Show Cause Notice (SCN) has been issued in this matter.

6. Considering the nature of the matter, let the gold items be produced before the Court as the case of the Petitioners is that they are old jewellery which had been used by the Petitioners."

7. Today, the gold items have been produced before the Court. Upon a perusal of the gold items, it is clear that the gold items are not used gold jewellery of the Petitioners, and the same are absolutely brand new jewellery,



which is stated to have been purchased by the Petitioners in Dubai and were being brought to India.

8. Recently, the Supreme Court in *Union of India & Anr. v. Jatin Ahuja*, *Civil Appeal No. 3489/2024*, dated 11th September, 2025 held 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. The above decision is clear to the effect that if no SCN is issued within the time prescribed under Section 110 of the Customs Act, 1962, the seized goods are liable to be released. The time prescribed under Section 110 of the



Act, is a period of six months and subject to reasons recorded in writing, the same may be extended for a maximum period of six months. In this case, the one year period itself has elapsed, thus no SCN can be issued at this stage. The continued detention of seized gold items is, therefore, impermissible and the same are liable to be released to the Petitioners.

10. Accordingly, considering the above decision as also the facts of the case, since no SCN has been issued to the Petitioner, it is directed that the Customs Department shall release the seized gold items to the Petitioner in the following terms:

- i. The entire applicable Customs duty shall be paid by the Petitioners;
- ii. Full warehousing charges as applicable on the date of detention shall also be paid.

11. Let the Petitioners appear before the Customs Department on 23rd December, 2025 in person or through an Authorised Representative. Where the Authorised Representative is appearing, the Petitioners shall join the proceedings virtually and a proper email or some other form of communication from the Petitioners shall be sent to the Customs Department verifying the authorisation of the said representative to appear on behalf of the Petitioners.

12. Upon the above directed payments being made, the gold items shall be released.

13. The Nodal Officer mentioned below shall facilitate the Petitioners' 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
Mobile No.: 9999922479*

14. Since the Petitioners have given an impression that the detained gold items are old jewellery of the Petitioners, which is clearly not correct, upon a perusal of the said jewellery, costs of Rs. 10,000/- in each of the petitions is imposed on the Petitioners. The costs shall be deposited with the Delhi High Court Bar Clerk Association. The bank account details are given herein below:

Delhi High Court Bar Clerk Association

- ***Name: Delhi High Court Bar Clerk Association***
- ***Bank: UCO Bank, Delhi High Court.***
- ***A/c No.: 15530100006282***
- ***IFSC Code: UCBA0001553***

15. The deposit shall be made by 15th December, 2025 and the proof of deposit shall be produced before the Customs Authority on 23rd December, 2025, subject to which the release shall be effected. The Petitioner shall contact the nodal officer for the same.

16. The petitions are disposed of in these terms. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

RENU BHATNAGAR
JUDGE

NOVEMBER 26, 2025
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