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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) 10809/2024

CHETAN JAIN

.....Petitioner

Through: Mr. Amit Chadha, Sr. Adv. with Mr. Sambhav Garg, Mr. Atin Chadha, Mrs. Munisha Chadha, Mr. Harjas Singh Chhatwal and Mr. Dhruv Tomar, Advs.

versus

COMMISSIONER OF CUSTOMS & ORS.

.....Respondents

Through: Mr. Shubham Tyagi, SSC CBIC.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RENU BHATNAGAR

JUDGMENT

Prathiba M. Singh, J.

1. This hearing has been done through hybrid mode.
2. This matter is being taken up today, as 25th November, 2025 was declared a holiday on account of 'Guru Tegh Bahadur's Martyrdom Day' vide Notification No. 35/G-4/Genl.-I/DHC.
3. The present Petition has been filed by the Petitioner Chetan Jain under Article 226 of the Constitution of India seeking unconditional release of the gold coins weighing 48 grams, which were seized in pursuance of a Detention Receipt dated 2nd January, 2024. The Petitioner was travelling with his wife and child from Dubai to India. The item which was seized from the Petitioner's wife was a 'Patek Philippe' watch which was taken to



be a personal effect.

4. The writ petition filed by the Petitioner's wife Ms. Shubhangi Gupta bearing **W.P. (C) 10772/2024** titled **Ms. Shubhangi Gupta vs. Commissioner of Customs & Ors.** was decided by this Court on 4th November, 2024. The Coordinate Bench of this Court allowed the said writ petition in the following terms:

“14. We are of the view that in the facts of the present case, the item seized by the Revenue is required to be returned forthwith as the provisions of Section 124 of the Act have not been complied with.

15. In view of the above, the present petition is allowed and the Revenue is directed to forthwith release the item in question to the petitioner.

16. Before concluding, it is also necessary to note that it is the petitioner's case that she desires to re-export the item in question and to carry the same back. In this regard, the petitioner shall apply for re-export of the item, which shall be considered in accordance with law.

17. The petition is disposed of in the aforesaid terms.”

5. The S.L.P. against the said order was dismissed on 5th May, 2025 bearing **S.L.P. (C) 17869/2025** as being misconceived.

6. No Show Cause Notice has been issued in this matter but the stand of the Department is that there is an oral Show Cause Notice. This issue was considered in **Ms. Shubhangi Gupta (supra)** in the following terms:

“10. He submitted that it is not necessary that a show cause notice under Section 124 of the Act be issued in writing and the said notice can also be issued orally. He further contended that in the present case, an oral show cause notice under Section 124 of the Act was issued. Since the petitioner had waived the right to make any representation under Section 124(b) of the Act, the requirements of Section



124 of the Act were complied with and the Customs Authorities are now required to pass an order.

11. The aforesaid contention is unmerited. There is no averment in the counter affidavit to the effect that an oral show cause notice was issued to the petitioner calling upon her to show cause why the item in question be not confiscated. Absent any such notice (whether in writing or in oral), we are unable to accept that the provisions of Section 124(a) of the Act are satisfied. It is also material to note that it is not the stand of the Customs Authorities in their counter affidavit that any such oral notice was issued. On the contrary, it is claimed that no such notice is required to be issued as the petitioner had waived the same. Concededly, there is no provision for waiver of the notice as prescribed under the statute.

12. In terms of Section 110(2) of the Act, the seized goods are required to be returned, if a notice under Section 124 of the Act is not issued within the period as prescribed. As noted above, in the present case, it is apparent that no such notice was issued by the Customs Authorities.”

7. Recently, the Supreme Court in **Civil Appeal No. 3489/2024** titled **Union of India &Anr. v. Jatin Ahuja** has also categorically held that without an SCN the goods would be liable to be returned to the passengers. The said observations are also set out below:

“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.*

8. In terms of the above judgments, the seized gold coins would be liable to be released as there is no SCN which has been issued, no oral hearing has been held and the gold coins are lying with the Customs Authority.

9. Accordingly, the department shall release the goods to the Petitioner in the following terms:

I. The applicable customs duty shall be paid by the Petitioner.

II. The warehousing charges shall be collected based on the charges applicable on the date of detention.

10. The Petitioner shall appear either personally or through Power of Attorney Holder, but in any case, shall join the proceedings virtually.

11. The following nodal officer shall assist the Petitioner in appearing before the Customs Authority:

**Mr. Mukesh Gulia, Superintendent, Legal
IGI Airports, T-3, New Delhi
Mobile No. : +91 9999922479
Email id: igilegaldelhi@gmail.com**



12. The Petitioner shall appear before the Customs Department on 22nd December, 2025 at 02:00 p.m.
13. The Petition, along with pending Application(s), if any, is disposed of.

PRATHIBA M. SINGH, J.

RENU BHATNAGAR, J.

NOVEMBER 26, 2025/kp/hp