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

*Date of Decision: 26<sup>th</sup> November, 2025*

*Uploaded on: 1<sup>st</sup> December, 2025*

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**W.P.(C) 14621/2025**

MONISH KANSAL THROUGH SPA

RITIK AGNIHOTRI

.....Petitioner

Through: Mohammed Ather and Mohammed

Mobeen Akhter, Advs.

versus

COMMISSIONER OF CUSTOM & ORS.

.....Respondents

Through: Mr. Aditya Singla, SSC CBIC with

Ms. Arya Suresh, Adv.

**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, *inter alia*, seeking issuance of an appropriate writ seeking unconditional release of one Rolex watch of the Petitioner seized by the Customs Department *vide* Detention Receipt No. 005778 dated 22nd February, 2025 .
4. The Petitioner who is an Indian national, settled in the U.S.A, having a Permanent Resident Card bearing no. 066-421-697, was travelling to India *via* Dubai on 22<sup>nd</sup> February, 2025. According to the Petitioner, he was wearing his old Rolex watch, which was detained by the Customs Department upon



his arrival at the Indira Gandhi International Airport, New Delhi. The case of the Petitioner is that no Show Cause Notice (hereinafter, 'SCN') has been issued till date.

5. Ld. Counsel for the Petitioner submits that the said Rolex watch is a 'personal effect' of the Petitioner. He has placed photographs on record to show past wearing of the said Rolex watch.

6. On 22<sup>nd</sup> September, 2025, the Court had directed the detained Rolex watch to be produced. The same has been produced today and a perusal of the same would show that the same is clearly a used watch, as there are several scratches on the same – both on the dial, the strap. The watch is clearly an old personal effect of the Petitioner who is a foreign resident.

7. The Petitioner being a permanent U.S. resident, this matter would be covered clearly by the decision of the Supreme Court in ***Directorate of Revenue Intelligence v. Pushpa Lekhumal Tolani, (2017) 16 SCC 93*** where it was held 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.”*

8. Further, since the SCN has not been issued in this matter, the dictum in *Civil Appeal No. 3489/2024* titled *Union of India &Anr. v. Jatin Ahuja* would be squarely applicable in this case. The Supreme Court in the said judgment had 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 Act, 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 watch is, therefore, impermissible and the same are liable to be released to the Petitioner.

10. Accordingly, considering the above decision as also the facts of the case, it is directed that the Customs Department shall release the seized watch to the Petitioner for re-export without payment of any duty. No warehousing charges shall be collected.

11. Let the Petitioner appear before the Customs Department on 22nd December, 2025 at 2:00 P.M. in person or through an Authorised Representative. Where the Authorised Representative is appearing, the Petitioner shall join the proceedings virtually and a proper email or some other form of communication from the Petitioner shall be sent to the Customs Department verifying the authorisation of the said representative to appear on behalf of the Petitioner. Upon verification, the watch shall be released to the Petitioner.

12. 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](mailto:igilegaldelhi@gmail.com)  
Mobile No.: 9999922479***

13. The seized watch has been returned to the concerned officials of Customs Department and the same has been resealed.
14. The petition is disposed of in the above terms. Pending applications, if any, are disposed of.

**PRATHIBA M. SINGH  
JUDGE**

**RENU BHATNAGAR  
JUDGE**

**NOVEMBER 26, 2025/kp/hp**