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

Date of decision: 26th November, 2025

Uploaded on: 1st December, 2025

+ **W.P.(C) 15765/2025 & CM APPL. 64674/2025**

JAVED ALI GOUSE

.....Petitioner

Through: Mr. D. S. Chadha, Adv.

versus

COMMISSIONER OF CUSTOMS NEW DELHIRespondent

Through: Mr. Aakarsh Srivastava, SSC, Mr.
Anand Pandey, 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 under Article 226 of the Constitution of India, *inter alia*, seeking release of one gold chain of the Petitioner, weighing 58 grams seized by the Customs Department *vide* Detention Receipt bearing no. DR/INDEL4/19-02-2024/003822 dated 19th February, 2024.
4. The case of the Petitioner is that he was travelling from Saudi Arabia to Delhi on 19th February, 2024. Upon arrival at the Indira Gandhi International Airport, New Delhi, the Petitioner was intercepted by the concerned official of the Customs Department and the gold chain of the



Petitioner was seized. According to Id. Counsel for the Petitioner, no Show Cause Notice (hereinafter, 'SCN') was issued to the Petitioner and till date no personal hearing has also been afforded to the Petitioner. Thus, in terms of the decision of the Supreme Court in *Union of India & Anr. v. Jatin Ahuja, Civil Appeal No. 3489/2024*, release of the gold chain is sought.

5. Mr. Aakarsh Srivastava, Id. SSC for the Respondent, submits that the Id. Counsel appearing in this matter on behalf of the Petitioner has waived the personal hearing and has received the oral SCN. An undertaking in this regard has been handed over by Id. SSC. A Special Power of Attorney authorising Mr. D.S. Chadha and Ms. Prabhjyoti Kaur Chadha, Id. Counsels to act on behalf of the Petitioner has also been handed over which has not been filed with the writ petition. Id. SSC further submits that the notice of personal hearing was also served upon the Id. Counsel for the Petitioner, giving three hearings in August, 2025. The same has not been attended by the Petitioner.

6. The Court has considered the matter. There was a duty upon the Id. Counsel for the Petitioner to disclose all the documents which have been handed over by Mr. Aakarsh Srivastava, Id. SSC.

7. Be that as it may, Ms. Prabhjyoti Kaur Chadha, Id. Counsel for the Petitioner, who is present in Court, submits that when she had appeared before the Customs Department to get the goods of the Petitioner appraised, the said undertaking was taken from her by the Customs Department. Further, it is submitted that the notice for personal hearing has not been served upon the Petitioner or the Counsels.

8. It has been emphasized repeatedly to the Customs Department that in addition to physical letters and communications, notices ought to be sent on e-mail address and mobile number. This Court way back in January, 2025 in



Bonanza Enterprises v. The Assistant Commissioner of Customs & Anr.,
2024:DHC:9885-DB directed as under:

“22. The Customs Department ought to in future follow a system by which in addition to notices by speed post, registered post or courier, notices are also sent on the email address which is provided on the letterhead of the Petitioner or any authorised person. This would avoid substantial delay and matters proceeding ex-parte as has happened in the present case.

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27. In the opinion of this Court, in order to avoid improper service to parties and to avoid ex-parte proceedings, it is incumbent that service of notices, communications and orders ought to be effected even through email and on the common portal, in addition to the traditional methods as per Section 153. Let the present order be communicated to the Chairman, Central Board of Customs and Indirect Taxes by the Ld. Standing Counsel (Customs) so that the mandate of the provision of Section 153(b) and (c) for communication of notices, orders etc., by email as also uploading on the Directorate General of Foreign Trade (DGFT) common portal can henceforth be given effect to.”

9. The Court notices that the personal hearing notice in the present case has been sent to the Petitioner in Tamil Nadu and to Mr. D.S. Chadha, Id. Counsel for the Petitioner at his office in Lajpat Nagar, New Delhi. It is not even clear if the notice has even been served or not.

10. Be that as it may, even if any passenger, lawyer or Power of Attorney holder appears for appraisal, it would be contrary to law to get any undertaking signed in terms of waiver of personal hearing or SCN.

11. Further, this Court has held repeatedly that standard pre-printed



waivers of SCN and personal hearing would not be valid in law as held in *Amit Kumar v. The Commissioner of Customs, 2025:DHC:751- DB*. The relevant portion of the said order reads 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.”

12. Therefore, Customs Department ought to:

- i. Not insist upon any undertaking being signed at the time of appraisement of goods – that too by passengers who do not understand the implications of the same;
- ii. Send communications to Id. Counsels and to Passengers/Petitioners on the physical address as also on the e-mail address and mobile number.

13. In the facts of the present case, since personal hearing notice has been shown to the Court, at this stage, the Court is inclined to grant a personal hearing to the Petitioner on **14th January, 2026.** A personal hearing notice shall be issued to the Petitioner on the following e-mail address and mobile number:

- **E-mail Address:** pelicanc@yahoo.co.in
- **Mobile Number-** 9818563676

14. Mr. D. S. Chadha or Ms. Chadha, Id. Counsel is permitted to appear on behalf of the Petitioner before the Customs Department. If any documents or submissions are to be filed, the same may be done by 5th January, 2026.

15. The hearing shall be given to the Petitioner and a reasoned order shall be passed by the Customs Department in accordance with law.

16. The Adjudicating Authority shall bear in mind that the gold chain is only 58 grams and the Petitioner is a resident of Saudi Arabia for the last thirteen years. If the Petitioner is willing to re-export the gold chain, the same



shall also be considered by the Adjudicating Authority.

17. 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
Mobile No.: 9999922479***

18. The petition is disposed of in these terms. Pending applications, if any, are disposed of.

**PRATHIBA M. SINGH
JUDGE**

**RENU BHATNAGAR
JUDGE**

NOVEMBER 26, 2025_{/tg/ck}