



\$~32

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

Date of Decision: 26th November, 2025

Uploaded on: 28th November, 2025

+ **W.P.(C) 9063/2025 & CM APPL.48625/2025**

ROOVI

.....Petitioner

Through: Dr. Ashutosh and Ms. Fatima Bano,
Advs.

versus

COMMISSIONER OF CUSTOMS

.....Respondent

Through: Mr. Harpreet Singh, SSC with Mr. Jai
Ahuja and Mr. Santosh Sharma,
Advs.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RENU BHATNAGAR

Prathiba M. Singh, J. (Oral)

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. This is a petition filed by the Petitioner- Ms. Roovi under Articles 226 and 227 of the Constitution of India *inter alia* seeking release of the goods, detained by the Respondent Department vide detention receipt No. 3821 dated 18th February, 2024.
4. Vide the said detention receipt, the Respondent Department had detained the goods of the Petitioner, being 7 gold bangles weighing 222 grams.
5. The case of the Petitioner is that no Show Cause Notice has been



issued till date.

6. Notice was issued in this matter on 23rd July, 2025. The case of the Petitioner is that the bangles belong to three ladies. All three of them travelled together. Dr. Ashutosh, Id. Counsel for the Petitioner contends that No Show Cause Notice (*herein after* 'SCN') was issued in this matter.

7. However Ld. Counsel for the Respondent submits by way of Counter Affidavit which is on record that there is an Order-in-Original (*herein after* 'OIO') dated 21.05.2024 which has also been passed by the authorities directing the absolute confiscation in the following terms:

*"12. Further, I find that gold is not allowed to be imported freely in baggage. I find that the Pax did not fulfill the conditions set out in the provision to clause 3(1)(h) of the Foreign Trade (Exemption from application of rules in certain cases) Order, 1993 dated 31.12.1993 (as amended) and Rule 5 of the Baggage Rules, 2016 as reproduced at Paras 9.1(X) and (XV) above, respectively. Further, for concessional rate of duty on the import of Gold into India by any passenger, the Notification No. 50/2017-Cus dated 30.06.2017 (as amended) have been issued. As per the above-mentioned Notification, Gold is permitted to be imported only by an "eligible passenger" subject to fulfillment of certain conditions namely:
(i) the duty is paid in convertible Foreign Currency:
(ii) the total quantity of gold under item S. No. 356 does not exceed One Kilogram.*

The eligible passenger has been defined in the notification as under;

For the purpose of this notification, "eligible passenger" means a passenger of Indian Origin or a passenger holding a valid passport, issued under the passport Act, 1967 (15 of 1967) who is coming to India after a period of not less than six months of stay abroad, and short visit,



if any made by the eligible passenger during the aforesaid period of six months shall be ignored if the total duration of stay on short visit does not exceed thirty days and such passenger has not availed the exemption under this notification or under the notification being superseded at any time of such short visits.

13. In the instant case, the passenger is an Indian National having Indian Passport B8159347 and she departed from India on 31.01.2024 and arrived back on 18.02.2024. The stay abroad is clearly for less than 06 (Six) Months and, therefore, it is concluded that the Pax is an "ineligible passenger" to import gold at concessional rate of duty in view of the eligibility and conditions laid down under the above discussed notification dated 30.3.2017 (as amended). Further, as per definition, "personal effects" means things required for satisfying daily necessities but does not include gold bars/jewellery. However, as per Rule 5 of the Baggage Rules, 2016, a passenger residing abroad for more than one year, on return to India, shall be allowed clearance free of duty in his bonafide baggage of Jewellery upto a weight, of Twenty Grams with a value cap of Fifty Thousand Rupees if brought by a Gentleman passenger, or Forty Grams with a value cap of One Lakh Rupees if brought by a Lady Passenger. Whereas, in the instant case, the detained gold was found to be over and above the prescribed quantity and value cap, as prescribed under the rule, ibid and thus concluded to be 'prohibited goods' and not allowed to be imported or brought as baggage by the Pax. The Pax claimed the ownership of the detained goods and stated that the recovered items belong to her in her statement dated 18.02.2024 tendered/recorded under Section 108 of the Customs Act, 1962."

8. Ld. Counsel for the Respondent points out that an advocate, one Ms.



Harsimran Kaur had appeared for the Petitioner and was present before the adjudicating authority.

9. The Petitioner is present in Court.

10. The foundational facts of the petition itself would be different in as much as the detention receipt has been issued only to one lady but the gold is claimed by three ladies. The ownership of these bangles would have to be determined. These issues cannot be gone into in a Writ petition as these are disputed questions of fact. However, considering that no SCN has been issued and no hearing has also been granted, the Petitioner is permitted to challenge the impugned OIO dated 21st March, 2024 by way of an appeal before the Commissioner of Customs (Appeals).

11. If the appeal is filed by 15th January, 2026, the same shall be considered in accordance with law on merits and shall not be dismissed on the ground of being barred by limitation. The appeal shall be disposed of within four months.

**PRATHIBA M. SINGH
JUDGE**

**RENU BHATNAGAR
JUDGE**

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