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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 29th May, 2025

+ **W.P.(C) 5867/2025**

SUMER SINGH

.....Petitioner

Through: Ms. Richa Kumari, Mr. Pawan & Mr.
Yatin Bhutani, Adv.

versus

COMMISSIONER OF CUSTOMS

.....Respondent

Through: Mr. Shubham Tyagi, SSC CBIC &
Ms. Navruti Ojha, Adv.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RAJNEESH KUMAR GUPTA

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The present petition has been filed under Article 226 of the Constitution of India, *inter alia*, seeking release of one gold *kada* weighing 114 grams and one iPhone 16 256 GB variant (hereinafter “*the detained goods*”), detained by the Customs Department *vide* Detention Receipt dated 30th October 2024.
3. The Petitioner is an Indian national. It is stated that on 30th October, 2024 he was travelling from Dubai to India and upon his arrival at the Indira Gandhi International Airport, New Delhi, he was intercepted by the Customs Officials. The detained goods were seized by the Customs Department on the same date.
4. It is the submission on behalf of the Petitioner that the gold *kada* is a used old *kada*. Further, insofar as the iPhone is concerned, it is submitted that



the same had been purchased from Dubai as a duty free item which is permissible, and the same is a personal effect as defined in the Baggage Rules, 1998, read with **Notification No. 72/98-Cus (NT)** dated 24th September 1998, as amended by the Baggage (Amendment) Rules, 2006, as also under Rule 2, sub-rule (vi) of the Baggage Rules, 2016 (hereinafter “*the 2016 Rules*”). Moreover, the said phone is stated to be of daily necessity and use to the Petitioner. In support of the same, the Petitioner relies on the photographs placed on record.

5. The matter was considered by the Court on 5th May, 2025, on which date it was submitted on behalf of the Petitioner that no Show Cause Notice has been issued in this matter and only a personal hearing notice had been issued on 21st April, 2025 for appearance before the concerned official *i.e.*, Assistant Commissioner, on 7th May, 2025. The relevant part of the said order reads as under:

“5. Let the Petitioner appear on 7th May, 2025 either personally or through an authorised representative before the concerned official. It is made clear that the Petitioner shall place all the documents which have been placed before this Court, before the said official.

6. In addition, after the personal hearing, an order shall be passed which shall be placed on record by 19th May, 2025.

7. Vehement grievance has been raised by the Petitioner in respect of warehousing charges which are charged by Central Warehousing Corporation (hereinafter, 'CWC) and which are not exempted despite orders of the Court.

8. The Customs Department shall place on record the arrangement between them and CWC and the manner in



which the warehousing or storage charges are being collected from the passengers.”

6. Today, Mr. Tyagi, Id. Counsel for the Customs Department has handed over the Order-in-Original dated 18th May, 2025 which has been passed. The said Order-in-Original is taken on record. The operative portion of the said order reads as under:

“2. The passenger Sumer Singh (DOB 10-11-1983) holding Indian passport No.R5000517 (hereinafter referred as 'the Pax') arrived from Dubai to IGI Airport Terminal-3, New Delhi by flight AI 916 dated 30.10.2024 and opted for Green Channel. He was intercepted by the Customs Officer after he had already crossed the Green Channel and during his personal & baggage search "One yellow metal kada weighing 116 gms and one iPhone 16 256 GB" was found and the same was detained vide Detention Receipt (DR) No. "DR/INDEL4/12.09.2024/005390 dt. 30.10.2024" with remark GC Violation.

3. The Pax tendered his statement dated 30.10.2024 under Section 108 of the Customs Act, 1962 in which he admitted that he had arrived from Dubai to IGI Airport Terminal-3, New Delhi by the flight AI 916 dated 30.10.2024; that he was intercepted by the Customs Officer after he had already crossed the Green Channel and during the scanning/DFMD, the above said item was recovered from his hand "One yellow metal kada weighing 116 gms and one iPhone 16 256GB" recovered from his possession and it was admitted by the Pax that the said goods belong to him; that he admitted the act of omission and commission on his part; that he was not aware of the facts that import of above mentioned items attract import duty. He requested that he did not want Show Cause Notice and Personal Hearing in this matter; tendered his statement



which was true and correct, and understood the same in vernacular; tendered the above statement without any duress, pressure or threat.

4. Personal Hearing was fixed for any of the dates, 02.05.2025 or 05.05.2025 or 07.05.2025, but neither the Pax, nor his Authorized Representative, appeared on any of the said dates. However, the Authorized Representative submitted her submissions dated 07.05.2025, on the behalf of the Passenger, wherein she stated that the passenger is a citizen of India having Passport No. R5000517, who travelled to Dubai on as a tourist and came back to India from Dubai by Flight No. AI 916 on 30.10.2024; that, passenger had been wearing a Gold Kada gifted to him by his grandfather for several year; that, the passenger gifted his kada to his brother on the occasion of his marriage and purchased the detained kada for himself; submitted the purchase invoice bearing no. VI996 dated 01.10.2024 and also submitted the photo of the passenger of wearing the said detained Kada and also further stated that during his visit to Dubai, purchased an iPhone for his personal use.

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10. In view of the foregoing, I pass the following order:

ORDER

i. I deny the 'Free Allowance', if any, admissible to the Pax Mr. Sumer Singh, for not declaring the detained goods to the Proper Officer at Red Channel, as well as to the Customs Officer at Green Channel, who intercepted him and recovered the detained goods from him.

ii. I order unconditional release of "one Gold kada weighing 114 gms" recovered from the Pax Mr. Sumer Singh and detained vide DR No. "DR/INDEL4/25.05.2023/ 001951 dated 25.05.2023" being of Indian origin as per evidence adduced on record and being part of the "personal effects" of the



pax.

iii. I declare the passenger, Sumer Singh, is an "ineligible Passenger" for the purpose of the Notification No. 50/2017-Customs dated 30.06.2017 (as amended) read with Baggage Rules, 2016 (as amended).

iv. I order confiscation of"(i) one iPhone 16 256GB recovered from the Pax Mr. Sumer Singh and detained vide DR No. DR/INDEL4/30.10.2024/005390 dt.30.10.2024 under section 111(d), 111(j) and 111(m) of the Customs Act, 1962;

v. I give an option to redeem the goods confiscated above, on payment of applicable import duties, along with the redemption fine of Rs 5,000/- (Rs. Five thousand only). I allow release of the detained goods within 120 days of issue of this order under Section 125(3) of Customs Act, 1962. The redemption is to be allowed after the completion of legal formalities in this regard and also fulfillment of any regulatory clearances/ approvals required. The offer of redemption, if accepted, shall be subject to condition that the Pax shall not dispute the identity and valuation of the detained goods. The offer of redemption shall cease after 'One Hundred Twenty Days' from date of the receipt of this order;

vi. I also impose a penalty of Rs. 10,000/- (Rs. Ten thousand only) on the Pax Mr Sumer Singh under section 112 (a) and 112(b) of the Customs Act, 1962. ”

7. As can be seen from the above order, the Show Cause Notice (hereinafter “*the SCN*”) was waived in this matter by a pre-printed form. However, a personal hearing was provided to the Petitioner in terms of the order dated 5th May, 2025. In terms of the order, the *gold kada* has been released as being ‘personal effects’. One iPhone has been confiscated but the option to redeem has been given in the case of the iPhone, subject to redemption fine of Rs.5,000/- and penalty of Rs.10,000/-.



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8. In view of the order which has been passed, this is a fit case where the Order-in-Original may be given effect to. Let the Petitioner appear before the Customs Authority on 9th June, 2025 and seek release after paying the redemption fine and penalty.

9. In the facts of this case, since the SCN was waived in the initial stage by a pre-printed form, the warehousing charges shall not be collected in this matter.

10. The Petitioner may collect the detained goods through an Authorised Representative, in which case, the detained goods shall be released after receiving a proper email from the Petitioner or some form of communication that the Petitioner has no objection to the same being released to the concerned Authorised Representative.

11. Petition is disposed of in these terms. All pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

MAY 29, 2025

Rahul/msh