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

Date of Decision: 31st October, 2025

+ **W.P.(C) 16119/2025 & CM APPL. 66005/2025**

MS. SUNITA SHAH

.....Petitioner

Through: Mr. Harsh Trikha, Adv. (M: 97176
56389)

versus

COMMISSIONER OF CUSTOMS, IGI AIRPORT
& ORS.

.....Respondents

Through: Mr. Vishal Chadha, Adv. (M:
9810641379)

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE SHAIL JAIN

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner under Article 226 and 227 of the Constitution of India, *inter alia*, assailing the impugned Order-in-Original dated 11th July, 2024 passed by the Joint Commissioner of Customs, IGI Airport, Terminal-3, New Delhi (*hereinafter*, 'impugned OIO').
3. A brief background of the Petitioner's case is that, the Petitioner who is a Nepalese citizen, was travelling from UAE to India on 21st June, 2024. Upon her arrival at the Indira Gandhi International Airport, New Delhi, she was intercepted by the concerned officials of the Customs Department and 4 gold bangles weighing 240 grams (*hereinafter*, 'gold bangles') were stated to be seized from her *vide* detention receipt dated 21st, June, 2024.
4. It is the case of the Petitioner that no Show Cause Notice (*hereinafter*,



‘SCN’) was issued to the Petitioner, and the impugned OIO was passed on 11th July, 2024.

5. *Vide* the impugned OIO, the gold bangles were confiscated absolutely and a penalty was imposed. The relevant portion of the impugned OIO is as under:

“

ORDER

i) I deny the "Free Allowance, if any, admissible to the Pas Sham Sunder Verma for not declaring the detained goods to the Proper Officer at Red Channel as well to the Customs Officer at Green Channel who intercepted him and recovered the detained goods from him.

ii) I declare the passenger Ms Sunita Shah as “an ineligible Passenger” for the purpose of the Notification No. 50/ 2017-Cus dated 30.06.2017 (as amended) read with Baggage Rules, 2016 (as amended):

iii) I order absolute confiscation of Four Gold bangles having average purity 998 with gross and net weight 240 grams having Assessable value Rs.16,13,261/- recovered from the Pax under Section 111 (d), 111 (j) 111 (m) of the Customs Act, 1962;

iv) I also impose a penalty of Rs. 1,60,000/- (Rupees One Lac Sixty Thousand Only) on the passenger MsSunita Shah under Section 112 (a) & 112 (b) of the Customs Act, 1962.”

6. Thereafter, the Petitioner filed an appeal, however, the appeal has still not been decided by the Appellate Authority. It is submitted on behalf of Id. Counsel for the Petitioner that under Section 128A(4A) of the Customs Act, 1962, the appeal is to be decided within a period of six months. The said



Section is extracted as under, for ready reference:

“128A. Procedure in appeal.—

xxx

[(4A) The Commissioner (Appeals) shall, where it is possible to do so, hear and decide every appeal within a period of six months from the date on which it is filed.]”

7. The grievance of the Petitioner is that almost a year has passed and the appeal has not been decided. In addition, Id. Counsel for the Petitioner relies upon the recent decision of the Supreme Court in *Civil Appeal No.3489/2024* titled *Union of India and Ors. v. Jatin Ahuja* where the Apex Court has held that if no SCN is issued, the party is entitled to unconditional release of the seized goods. The relevant portions of the said judgment is extracted 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. On the other hand, Id. Counsel for the Respondents submits that there was a waiver of SCN in the present case. The said position is refuted by the Id. Counsel for the Petitioner, on the ground that there was a standard pre-printed waiver form.

9. Heard Id. Counsels for the parties. Insofar as the validity of pre-printed waiver of SCN is concerned, this Court has already considered the same in *Amit Kumar v. The Commissioner of Customs, 2025:DHC:751-DB* 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.”*

10. Accordingly, in view of the settled law discussed hereinabove, the pre-printed waiver of SCN and personal hearing is contrary to law. Consequently, the impugned OIO is set aside.

11. In fact, the Petitioner is willing to re-export the seized gold bangles. Considering that there has been no SCN in this case, and no personal hearing has been granted, and that the impugned OIO is set aside, the Petitioner is entitled to unconditional release of the seized gold bangles.

12. Let the Petitioner appear before the concerned officials of the Customs Department on 17th November, 2025, for unconditional release of the seized gold bangles. In respect of the same, let the Petitioner contact the following



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officer who shall assist the Petitioner with requisite procedure:

Officer: Mr. Sandeep Lamba, Superintendent, Customs

**Address: Office of Commissioner, Customs, IGI Airport,
Terminal - 3, New Delhi**

Mob. No: 7405345000

Email: igilegaldelhi@gmail.com

13. However, the entire warehousing charges shall be collected.

14. At this stage, Id. Counsel for the Respondent submits that since the appeal is pending before the Appellate Authority, the same may be directed to be decided on an early date. However, in view of the fact that the impugned OIO has been set aside, the appeal has now become infructuous.

15. Accordingly, the petition is disposed of in these terms. Pending applications, if any, are also disposed of.

**PRATHIBA M. SINGH
JUDGE**

**SHAIL JAIN
JUDGE**

OCTOBER 31, 2025

dj/sm