

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**Civil Writ Petition No. 15687 of 2019 (O&M)
Date of Decision: 16.07.2019**

Rajesh Gupta

..... Petitioner

Versus

Deputy Director, Directorate of Revenue Intelligence, Chandigarh

..... Respondents

**CORAM: HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE LALIT BATRA**

Present: Mr. Jagmohan Bansal, Advocate
for the petitioner.

JASWANT SINGH, J.

1. Petitioner (*Rajesh Gupta*) has filed the present petition under Article 226 of the Constitution of India seeking a direction to the Directorate of Revenue Intelligence (in short “DRI”) / Commissionerate of Customs, to return the seized gold weighing 1960 grams.

2. The petitioner visited *Sharjah, UAE* on 31.08.2018 and while returning on 03.09.2018, the officers of DRI intercepted the petitioner at Chandigarh International Airport upon landing from *Dubai* by Air India Express Flight No. IX 188 and seized/recovered gold measuring 1960 grams under Section 110 of the Customs Act, 1962 (in short 1962 Act). The petitioner was arrested and released on bail under Section 437 of the Code of Criminal Procedure, 1973 by the Chief Judicial Magistrate, SAS Nagar (Mohali) on 11.09.2018 (**Annexure P-1**).

The DRI then issued a Show Cause Notice dated 26.02.2019 (**Annexure P-2**) calling upon the petitioner to show cause as to why the seized gold should not be confiscated and penalty not imposed upon him.

3. Counsel for the petitioner contended that the Show Cause Notice was served to the petitioner without furnishing the relied upon documents. The DRI had despatched the Show Cause Notice through registered post, which the petitioner received on 02.03.2019 without the relied upon documents. The petitioner vide letter dated 22.04.2019 requested the respondents to supply the relied upon documents, which were supplied through registered post on 27.04.2019. He submits that as per Section 110(2) of 1962 Act, if the Show Cause Notice is not served within six (06) months from the date of seizure, the goods are liable to be returned to the persons from whose possession they were seized. It is urged that the DRI had served an incomplete Show Cause Notice within six (06) months, hence, there is total non-compliance of the provisions of Section 110 of 1962 Act and, thus, the petitioner is entitled to return of the seized gold.

4. We have heard learned counsel for the petitioner and perused the paper-book with his able assistance.

We find that the DRI vide letter dated 15.05.2019 (**Annexure P-6**) informed the petitioner that the Show Cause Notice alongwith relied upon documents was served upon him through e-mail dated 27.02.2019. The petitioner is not disputing the receipt of the said e-mail containing the relied upon documents. It is also not in dispute that as per provisions of Section 153 of 1962 Act, e-mail is one of the prescribed modes of service.

We find some force in the arguments of the petitioner that a Show Cause Notice without the relied upon documents cannot be considered as a complete show cause for the purpose of fulfilling the requirement of Section 110(2) of 1962 Act, however, in the present case,

admittedly, the relied upon documents were sent through e-mail on

27.02.2019, supplementing the Show Cause Notice received on 02.03.2019. The intent and purport of Section 110 read with Section 153 of 1962 Act is to bring complete Show Cause Notice in the knowledge of person(s) from whom goods are seized. It is correct that the consequences are prescribed in case of non-compliance of time frame (six months) under Section 110(2) of 1962 Act, however, once the petitioner accepts that the relied upon documents were sent through e-mail even though the show cause notice was sent through speed post, we find that the DRI has complied with the requirement of Section 110 of 1962 Act. Had the relied upon documents not supplied within time frame prescribed under Section 110(2) of 1962 Act, the petitioner would have had a legitimate grievance warranting interference by this Court under Article 226 of the Constitution of India.

In view of the above, we do not find any merit in the present writ petition and the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

July 16, 2019
'dk kamra'

(LALIT BATRA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No