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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 4214/2020**

AHMED MURID QASIMYAR & ANR.

.....Petitioners

Through:

versus

COMMISSIONER OF CUSTOM(PREVENTIVE)Respondent

Through: Mr. Harpreet Singh, SSC, Ms. Suhani
Mathur and Mr. Shivang Chawla,
Advts.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER

23.10.2024

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1. The petitioner has filed the present petition, *inter alia*, praying as under:

“a. Issue a writ, order or direction in the nature of mandamus or any other appropriate writ, order or direction to unconditionally release the gold/ re export the gold detained on 09.06.2019, in the interest of justice.”

2. The petitioners (who are nationals of Afghanistan) were intercepted on 09.06.2019 by the Custom officials and five gold bangles weighing about 800 gms (hereafter *the goods*) were found in their possession and detained. Thereafter on 01.08.2019, summons under Section 108 of the Customs Act, 1962 (hereafter *the Act*) were issued to the petitioners for appearing before the concerned officer on 17.08.2019. The petitioners claim that petitioner no. 1 had appeared before the concerned officer on 17.08.2019 and the investigations had been completed. Thereafter, the petitioners had also filed their written submissions on 29.08.2019 before the Additional



Commissioner of Customs.

3. The petitioners have filed the present petition asserting that despite reminders, the concerned Custom authorities have not released the goods and, therefore, the petitioners were constrained to approach this Court.

4. Counter affidavit has been filed by the respondent, which indicates that an adjudication order was passed on 30.12.2019. It is also stated that order in original was also forwarded to the petitioners.

5. Concededly, the petitioners have a remedy of an appeal against the order in original and, therefore, we do not consider it apposite to entertain the present petition. It is the case of the petitioners that the said order in original was not communicated to the petitioners at the material time. Without going into the said question, we consider it apposite to direct that in the event the petitioners prefer an appeal within a period of four weeks from date, the same would be considered by the Appellate Authority, uninfluenced by the question of delay.

6. The petition is disposed of.

7. We clarify that all contentions of the parties are reserved and nothing stated in the order passed by this Court in this petition should be construed as an expression of opinion on the merits of the assertions made by the petitioners.

VIBHU BAKHRU, J

SWARANA KANTA SHARMA, J

Click here to check corrigendum, if any

OCTOBER 23, 2024/1