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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO/496/2025

NAIM ALI MALLICK ALIAS NAIM ALI MULLICK
VS
THE PRINCIPAL COMMISSIONER OF CUSTOMS
(PREVENTIVE) WEST BENGAL AND ORS

BEFORE:
The Hon'ble JUSTICE OM NARAYAN RAI
Date: 4th December, 2025.

APPEARANCE:
Mr. Abdul Hamid Molla, Adv.
Mr. Sahil Hamid, Adv .
Ms. Nupur Chaudhuri, Adv.
Mr. Biswadeep Dey, Adv.
…. for the petitioner

Mr. Uday Sankar Bhattacharya, Adv.
Mr. K.K. Maiti, Adv.
…for Customs Authorities

1. Affidavit filed on behalf of the Customs Authorities in terms of the order dated November, 12, 2025 is taken on record. Exception thereto in the form of an affidavit filed on behalf of the petitioner is also taken on record.
2. The writ petitioner has prayed for issuance of a writ of mandamus directing the respondent nos. 1 to 6 to return the *"seized gold and Indian Currency with 18% interest as per panchanama dated 18.01.2024".*
3. The crux of the petitioner's case is that the petitioner is entitled to the release of the seized gold and Indian Currency with interest inasmuch as the relevant Customs Authorities have failed to issue notice to show-cause within a period of six months from the date of seizure of the gold and Indian currency in terms of the provisions of Section 110(2) of the Customs Act, 1962. In fact paragraph 10

of the writ petition encapsulates the petitioner's case. The same is extracted hereinbelow:

> *"10. That the seizure was conducted on 18.01.2024 and the mandates of the notice of show cause for six months came to end on 17.07.2024. No notice and/or letter was given to the petitioner for extension of statutory period of six months in accordance with the first proviso to the Section 110(2) of the Customs Act, 1962. The Principal Commissioner and/or the Commissioner of Customs (Prevention) did not extend the limitation of the statutory stipulated time as per Section 110(2) of the Customs Act, 1962. The show cause notice was received by the petitioner on 07.08.2024 by Speed Post delivery i.e. beyond the statutory period by 20 days. The said show cause notice indicated that the Customs authorities dispatched through Speed Post only on 05.08.2024."*

4. When this matter was taken up on November 12, 2025, Mr. Bhattacharya, learned Advocate appearing for the respondents/customs authorities had produced a copy of a letter dated July 10, 2024 issued to the petitioner by the Superintendent of Customs which revealed that the Commissioner of Customs (Preventive) [CC (P)] West Bengal had extended the period of issuance of notice to show-cause by six months in terms of the provisions of section 110(2) of the Customs Act, 1962. Mr. Bhattacharya was requested to formally bring the said letter on record by way of an affidavit. A copy thereof was also directed to be served upon the learned Advocate for the petitioner prior to the returnable date.

5. Accordingly, as already recorded hereinabove, an affidavit on behalf of the Customs authorities, affirmed by the Deputy Commissioner of Customs, Legal, CC(P), West Bengal, Kolkata has been filed today by Mr. Bhattacharya, annexing therewith *inter alia* a copy of the said letter dated July 10, 2024 issued by the Superintendent of Customs (Prev.), HQ, P & I, CC(P), WB and copy of a note

sheet wherefrom it appears that approval has been granted for extension of time to issue notice to show cause by the Commissioner of Customs (Preventive) [i.e. CC(P)]. The petitioner has also filed his exception thereto by way of an affidavit as already recorded hereinabove.

6. Mr. Molla, learned counsel appearing for the petitioner while relying on the said affidavit submits that the letter dated July 10, 2024 issued to the petitioner by the Superintendent of Customs (Prev.), HQ, P & I, CC (P), WB, a copy whereof has been annexed at page 6 of the affidavit that has been filed on behalf of the Customs Authorities is a forged document. He submits that the letter should be sent for forensic examination. It is further submitted that although the signature of the petitioner that appears on the said letter is that of the petitioner but the same had been obtained on blank paper and the date that is shown below the said signature was never put in by the petitioner.

7. Mr. Molla submits that the place where the signature of the petitioner figures makes the document suspect inasmuch as that is not the place where one would reasonably sign as a token of receipt of a letter. It has also been submitted by Mr.Molla that the Court may go through the exception filed by the petitioner and consider the same as submissions on behalf of the petitioner.

8. Mr. Bhattacharya learned Advocate appearing for the respondent/customs authorities submits that the allegations made by the writ petitioner in the exception to the affidavit are without any basis. It is also submitted that the petitioner has not lodged any contemporaneous complaint with any authority about his signatures being procured on blank paper and has rather admitted that the signature appearing on the document dated July 10, 2024 is that of the petitioner.

9. Heard learned Advocates appearing for the respective parties and considered the materials on record.

10. The scope of this writ petition is to consider as to whether a direction should be issued to the respondent nos. 1 to 6 to return the seized gold and Indian Currency on the basis of the petitioner's assertion that notice to show-cause notice had not been issued to the petitioner despite a lapse of six months from the date of seizure. As noticed from the petitioner's own case in the writ petition, seizure was done on January 18, 2024 and "*show cause notice was received by the petitioner on 07.08.2024*".

11. In paragraph 5 of the writ petition, the petitioner has alleged that he was taken to Customs House and he was forced to sign on several blank papers. In paragraph 2 of the exception he has alleged that "*the document as at Page No.6 is a manufactured, false, forged, tampered and fabricated document upon misusing on blank signed paper which was procured at the time of seizure.*" It has been averred that the date mentioned under the petitioner's signature has not been written by the petitioner and that the same matches with the handwriting of the Superintendent of Customs. The petitioner has also urged that *"If the mobile tower location of the petitioner as well as the mobile tower location of the Superintendent Customs dated 10.07.2024 are called for, the tampering and interpolation would come out."* The petitioner has also alleged that "*the Logo of the Office have been Tempered"* and that the *"LOGO at Page – 5 is absolutely different from the LOGO at Page- 6."* The petitioner has contended that the same *"is required to be examined by the Central foreignsic Science Laboratory, Kolkata."*

12. In the said exception, the petitioner has contended that no further summons as indicated in the proposal for extension was ever served upon him and as such

the same could not form the basis of extension of time to issue notice to show cause. It is further noticed that in paragraph 5 of the exception, the petitioner has contended that the Commissioner himself should have communicated the petitioner about the extension and that *"the Commissioner of Customs ought to have recorded the exact reasons on his own (volition)" based on the proposals so placed before him, for the purpose of extension of the time limit as prescribed under the statute but instead of doing so he just put his signature on the note sheet (page 7) as token of approval for the extension of time period"*. The petitioner has also asserted that the communication is invalid as there is no DIN mentioned therein in terms of the Circular No.43/2019-Customs dated 23.12.2019

13. The Customs authority have brought on record material to show that the period of six months mentioned in section 110(2) of the Customs Act, 1962 has been extended by the Commissioner of Customs (Prevention) by a further period of six months. The same would be apparent from the averments mentioned at paragraph 3 of the affidavit affirmed by the Deputy Commissioner of Customs, Legal, CC(P), West Bengal, Kolkata and the note sheet appended at page 7 of the affidavit. The relevant portion of the note sheet appended at page 7 of the affidavit filed on behalf of the customs authorities reads as follows :

> *"Investigation is still under progress. It has been almost 5 months and the Noticee has not attended summons despite several reminders and sending different representatives on every summon.*
>
> *Keeping in view of the following:*
>
> *1) The seizure dated is 18/01/2024 with the expiry of 6 months being 17-07-2024.*
>
> *2) KYC, IPRR, CAF etc. is yet to be received from Airtel and Vodafone.*
>
> *Hence an extension may be invoked as laid down U/s 110(2) of the Customs Act 1962, …….*

File is placed opposite for perusal and approval of time period as laid down U/s_110 (2) of the Customs Act 1962 by the CC(P), WB on the reasons as detailed above"

14. A meaningful reading of the note sheet appended at page 7 thereof reveals that the Commissioner of Customs (Prevention) has approved the proposal for extension of time in terms of the first proviso to section 110(2) of the Customs Act, 1962 based on the reasons mentioned in the note sheet itself on July 10, 2024.

15. Section 110(2) of the Customs Act, 1962 and along with the provisos thereto are quoted herein below:

> *"Where any goods are seized under sub-section (1) and no notice in respect thereof is given under clause (a) of section 124 within six months of the seizure of the goods, the goods shall be returned to the person from whose possession they were seized:*
>
> *Provided that the Principle Commissioner of Customs or Commissioner of Customs may, for reasons to be recorded in writing, extend such period to a further period not exceeding six months and inform the person from whom such goods were seized before the expiry of the period so specified:*
>
> *Provided further that where any order for provisional release of the seized goods has been passed under section 110A, the specified period of six months shall not apply."*

16. If the Commissioner of Customs (Prevention) has approved the request for extension of time which was sought on the basis of the reasons mentioned in the note sheet itself, the same indicates that the Commissioner of Customs (Prevention) was satisfied with the same and has granted the approval. That, in the considered view of the Court, satisfies that requirement of recording of reasons mentioned in the first proviso to section 110(2) of the Customs Act, 1962. The petitioner's contention that no further summons or reminder was served upon the petitioner as indicated in the note sheet will also not make the

said Commissioner's exercise bad inasmuch as, even if the petitioner's version is accepted as true, the reason cited in the note sheet i.e "*KYC, IPRR, CAF etc. is yet to be received from Airtel and Vodafone*" cannot be brushed aside by this Court sitting in writ jurisdiction.

17. The assertion that the notice dated July 10, 2025 is bad since the same has not been communicated to the petitioner by the Commissioner himself does not hold water in the facts of the present case. The object of the proviso to section 110(2) is to keep the person whose goods have been seized informed about the extension of the period to show cause. Putting across the information is not even a tiny facet of the essential function of the Commissioner of Customs as regards taking the decision to extend time to issue notice to show cause. If the decision to extend the time to issue show cause is taken by the Commissioner then merely because the communication of such extension of time has not been done by the Commissioner himself but an officer subordinate to him would not render the communication invalid. It is noted that the letter dated July 10, 2024 indicates at the top that it has originated from the office of the Commissioner of Customs (Preventive) and it communicates that the said Commissioner himself has extended the time to issue show cause.

18. Thus in view of the fact that seizure was done on January 18, 2024, extension was done on July 10, 2024 and the show cause notice was received by the petitioner on August 07, 2024 this Court is of the view that the time to issue notice to show cause was validly extended before expiry of the original period of six months in terms of section 110(2) of the Customs Act, 1962 and show cause notice has been issued within the extended period of six months.

19. The letter dated July 10, 2024 appended to the affidavit filed on behalf of the customs authority bears the signature of the petitioner. The petitioner does not deny the signature but disputes the genuineness of the letter by asserting that the signature of the petitioner was obtained on blank paper and that the date mentioned below the petitioner's signature was not put by the petitioner. In fact the petitioner's stand is also somewhat inconsistent. To be precise, in the representation dated July 07, 2024 (made after five months of the date of seizure operation), the petitioner's case is that immediately after taking possession of the gold and cash the petitioner was made to sign on blank papers and thereafter the petitioner was taken to customs house (at page 40 of the writ petition) while in the writ petition the petitioner has stated in paragraph 5 that the petitioner was brought to customs house and was made to sign blank papers. The petitioner has not lodged any complaint with the police authorities as regards the alleged procurement of his signatures on blank papers. In such background, the question as to whether signatures were obtained on blank paper or not or as to whether the date written beneath the signature of the petitioner is in the handwriting of the petitioner or not cannot be decided in writ proceedings on the basis of affidavit evidence, more so when the affidavit filed by on behalf of the Customs Authorities in paragraph 3 thereof asserts that *"the Department has submitted the said letter dated 10.07.2024 which was duly received by the petitioner on the same day".* There is no good reason for this Court to disbelieve the respondents at this stage, only on the basis of the allegations leveled by the writ petitioner. On the basis of such an allegation, it cannot be concluded that the petitioner has not been properly informed about the extension in terms of the provisions of section 110(2) of the Customs Act, 1962.

20. As regards the assertion that DIN is not mentioned in the communication dated July 10, 2024 this Court is not inclined to hold the same to be invalid in the facts of the present case. The object of the circular dated December 23, 2019 appended to the exception filed by the petitioner is to ensure maintenance of proper audit trail of communications and to attest its genuineness confirming that it has originated from the department. In the case at hand the customs authorities have affirmed an affidavit and confirmed that the said letter has been issued by the customs authorities, thus there is hardly any scope to doubt the genuineness of the said notice and declare it invalid.

21. Before parting, it may be noted that the petitioner has submitted a compilation of judgments none of which has been pressed. However, this Court has gone through the said judgments namely, *Shri Bikash Soni vs. Union of India* (WP(C) No. 353 of 2023 decided by the High Court of Meghalaya on 05.04.2024), *Union of India vs. Bikash Soni* (WA No. 20 of 2024 with MC (WA) 14 of 2024 decided by the High Court of Meghalaya on 18.02.2025), *Muhammad Ali vs. Union of India* (WP(C) No. 766 of 2023 decided by the High Court of Manipur on 23.07.2025), *Deepak Natvartal Soni vs. Union of India* (Special Civil Application No. 17472 of 2017 decided by the High Court of Gujarat), *M/s. A.S. Enterprise vs. Commissioner of Customs* (WP No. 34581 of 2015 decided by the High Court of Madras on 02.06.2016), *Principal Commissioner of Customs vs. Santosh Handloom* (L.P. No. 88 of 2016 decided by the High Court of Delhi on 20.04.2016) and *Oyatabe Fabric Private Limited vs. Collectorate of Customs* reported at *1994 (74) ELT509(Cal)*. All the said judgments are on the proposition that if show cause notice is not issued within the period prescribed in section 110(2) of the Customs Act, the seized articles must be released. There can be no two opinions

on this point at all, but in the case at hand this Court has for the reasons mentioned above, found that there has been a valid extension. In such view of the matter, none of the said judgments support the petitioner.

22. For all the reasons aforesaid this Court is of the view that the case at hand does not warrant interference under Article 226 of the Constitution of India. WPO/496 of 2025 is, accordingly, dismissed. No costs.

23. Since no affidavit-in-opposition has been called for from the respondents/customs authorities, all allegations made against the Customs Authorities shall be deemed not to have been admitted.

(OM NARAYAN RAI, J.)

S. Mandi
A.R (CR)