



2025:DHC:2182-DB



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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 27th March, 2025

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W.P.(C) 2568/2025 & CM APPL. 12162/2025

GOVIND VENNAKOT CHANDRASEKHARANPetitioner

Through: Ms. Kavitha K.T., Mr. Subash K Chandhran, Mr. Sharat Gopal, Mr. Syam Krishnan K, Mr. Akash Awana and Meenal Pandagare, Advocates.

versus

ASSISTANT COMMISSIONER OF CUSTOMSRespondent

Through: Mr. Aditya Singla, SSC CBIC with Ms. Supriya Juneja and Ms. Arya Suresh Nair, Advocates.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RAJNEESH KUMAR GUPTA

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. This petition has been filed under Article 226 of the Constitution of India *inter alia* seeking setting aside of the impugned Order in Original dated 07th November, 2024 wherein the goods being one gold *kada* and two gold chains were confiscated and redemption was allowed subject to payment of Rs. 70,000/-.
3. The brief background of the present petition is that the Petitioner is an Indian Passport holder with a residency permit in United Arab Emirates (hereinafter 'UAE'). He and his family live in UAE as he is employed there. The Petitioner travelled to India along with his family on 09th April, 2024 to attend a marriage in Kerala. They were crossing the Green Channel when they



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were stopped by an Official of the Customs Department, and their personal gold ornaments were detained. Details of the same are as under:

<i>SL. NO.</i>	<i>DESCRIPTION AND NUMBER OF GOODS</i>	<i>GROSS WEIGHT IN GRAMS</i>
<i>1</i>	<i>ONE GOLD KADA</i>	<i>41 grams</i>
<i>2</i>	<i>TWO GOLD CHAINS</i>	<i>44 grams</i>

4. It is the case of the Petitioner that the jewellery were his personal effects which he used to wear regularly and was carrying with him for wearing in the wedding.

5. According to the Petitioner, no show cause notice was issued to him after the detention. The Petitioner only received the order in original dated 07th November, 2024 directly. The jewellery is also stated to be of sentimental value to the Petitioner. In terms of the said order, for redemption of the confiscated goods, a fine of Rs. 70,000/- along with penalty of Rs. 53,000/- has been imposed upon the Petitioner. No personal hearing is stated to have been granted. As per the said order redemption of the detained goods were allowed only within 120 days of issuance of this order under Section 125(3) of the Customs Act, 1962.

6. Mr. Aditya Singla, who is present in Court, is requested to accept notice on behalf of the Assistant Commissioner of Customs.

7. *Prima facie*, this Court is of the view that tourists and travellers of this nature ought not to be subjected to harassment by the Customs Officials, especially in respect of personal jewellery and personal effects.

8. In *Saba Simran v. Union of India & Ors.*, (2024:DHC:9155-DB) the



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Court decided the validity of the seizure of gold jewellery by the Customs Department from an Indian tourist. The Court considered the ambit of 'personal effects' vis-à-vis jewellery under the Baggage Rules, in effect from time to time. The relevant paragraphs of the said judgement are as under:

“13. When the 2016 Rules ultimately came to be promulgated, Rule 2(vi) specifically introduced a definition with respect to “personal effects”. As noticed in the preceding parts of this judgment, Rule 2(vi) while defining “personal effects” explicitly excludes items of jewellery. The word ‘jewellery’ as it now appears in that definition clause must necessarily be read in conjunction with the previous versions of the Baggage Rules which operated from time to time as well as the clarificatory Circular referred to above. However, both Rules 3(a) as well as 4(b) employ the phrase “used personal effects” and which expression existed even in the prior versions of the rules and have been noticed hereinabove.

14. Rule 2(vi) of the 2016 Rules essentially adopts the same concept of ‘used personal effects’ as was intended under the 1998 Rules, and by way of abundant caution, a definition now stands placed in the 2016 Rules and which purports to define the expression “personal effects” with sufficient clarity. However, the same would not detract from the distinction which the respondents themselves acknowledged in the Circular and intended customs officers to bear in mind the distinction which must be recognised to exist when construing and identifying ‘personal jewellery’ as opposed to ‘jewellery’ per se.

*15. The expression ‘jewellery’ as it appears in Rule 2(vi) would thus have to be construed as inclusive of articles newly acquired as opposed to used personal articles of jewellery which may have been borne on the person while exiting the country or carried in its baggage. **Thus, personal jewellery which is not found to have been acquired on an overseas trip and was always a used***



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personal effect of the passenger would not be subject to the monetary prescriptions incorporated in Rules 3 and 4 of the 2016 Rules.

*16. This clearly appeals to reason bearing in mind the understanding of the respondents themselves and which was explained and highlighted in the clarificatory Circular referred to above. That Circular had come to be issued at a time when the Appendices to the 1998 Rules had employed the phrase “used personal effects, excluding jewellery”. **The clarification is thus liable to be appreciated in the aforesaid light and the statutory position as enunciated by the respondents themselves requiring the customs officers to bear a distinction between “personal jewellery” and the word “jewellery” when used on its own and as it appears in the Appendices. This position, in our considered opinion, would continue to endure and remain unimpacted by the provisions contained in the 2016 Rules.***

9. A perusal of the above decision would lead to the conclusion that jewellery that is bona fide in personal use by the tourist would not be excluded from the ambit of personal effects as defined under the Rule 2(vi) of the Baggage Rules, 2016. The relevant rule is extracted below for reference:

“2(vi) “Personal effects” means things required for satisfying daily necessities but does not include jewellery.

* * * *

3. Passenger arriving from countries other than Nepal, Bhutan or Myanmar:-An Indian resident or a foreigner residing in India or a tourist of Indian origin, not being an infant arriving from any country other than Nepal, Bhutan or Myanmar, shall be allowed clearance free of duty articles in his bona fide baggage, that is to say, - (a) used personal effects and travel souvenirs; and (b) articles other than those mentioned in Annexure-I, up to the value of fifty thousand rupees if these are carried on the person



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or in the accompanied baggage of the passenger:

Provided that a tourist of foreign origin, not being an infant, shall be allowed clearance free of duty articles in his bona fide baggage, that is to say,

(a) used personal effects and travel souvenirs; and

(b) articles other than those mentioned in Annexure- I, up to the value of fifteen thousand rupees if these are carried on the person or in the accompanied baggage of the passenger:

Provided further that where the passenger is an infant, only used personal effects shall be allowed duty free.

Explanation.- The free allowance of a passenger under this rule shall not be allowed to pool with the free allowance of any other passenger.

* * * *

5. Jewellery.- A passenger residing abroad for more than one year, or return to India, shall be allowed clearance free of duty in his bona fide baggage of jewellery upto a weight, of twenty grams with a value cap of fifty thousands rupees if brought by a gentleman passenger, or forty grams with a value cap of one lakh rupees if brought by a lady passenger.

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ANNEXURE-I

(See Rules 3, 4 and 6)

- 1. Fire arms.*
- 2. Cartridges of fire arms exceeding 50.*
- 3. Cigarettes exceeding 100 sticks or cigars exceeding 25 or tobacco exceeding 125 gms.*
- 4. Alcoholic liquor or wines in excess of two litres.*
- 5. **Gold or silver in any form other than ornaments.***
- 6. Flat Panel (Liquid Crystal Display/Light-Emitting Diode/Plasma) television."*

10. A perusal of the above Rules would show that the Customs Department is required to make a distinction between 'jewellery' and 'personal jewellery'



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while considering seizure of items for being in violation of the Baggage Rules, 2016.

11. In the present case, the invitation card of the marriage which the Petitioner was intending to attend has also been placed on record. Thus, the bringing of the jewellery is clearly *bona fide*.

12. Mr. Singla, Id. Counsel for the Respondent submits that since the Order-in-Original has been passed, the Petitioner may be permitted to avail of the legal remedies.

13. The weight of the gold in this case is just 85 grams and they are personal jewellery of the Petitioner. In view thereof, following the reasoning given in ***W.P.(C) 2784/2025, Gopika Vennankot Govind v. Union of India***, the Order-in-Original is set aside. The items shall be released to the Petitioner, subject to payment of storage charges with the condition that the items shall be re-exported.

14. The items shall be handed over either personally or through authorised signatory after verifying credentials, within four weeks.

15. Accordingly, the writ petitions are disposed of in above terms.

PRATHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

MARCH 27, 2025/MR/ik