



\$~5

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

Date of Decision: 20th March, 2025

+ **W.P.(C) 2910/2025 & CM APPL. 13826/2025**

MOHD SAJID

.....Petitioner

Through: Mr. D S Chadha, Adv. (M:
9818563676)

versus

COMMISSIONER OF CUSTOMS NEW DELHIRespondent

Through: Mr. Aditya Singla SSC CBIC, Mr.
Ritwik Saha, Ms Medha Navami & Mr
Siddharth Saxena, Advs. (M:
7042841191)

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RAJNEESH KUMAR GUPTA

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

CM APPL. 13826//2025 (for exemption)

2. Allowed, subject to all just exceptions. Application is disposed of.

W.P.(C) 2910/2025

3. The present petition has been filed by the Petitioner- Mohd Sajid under Article 226 of the Constitution of India, seeking issuance of an appropriate writ directing return of the goods seized by the Respondent- Customs Department.

4. The Petitioner, who is a resident of Meerut, Uttar Pradesh, was found in possession of a total of 4 old and used iPhone 13 Pro, 128 GB (phones



without battery) at the time of his arrival at the Terminal 3, Indira Gandhi International Airport, New Delhi on 22nd July 2024. The Petitioner was travelling from Hong Kong to India.

5. The case of the Petitioner is that they were old and used iPhones, and the same were seized by the Customs officials, and a show cause notice bearing no. VIII(AP)10/P&I/5035-B/Arrival/2024 was issued on 17th January, 2025.

6. Ld. Counsel for the Petitioner submits that the six-month period has already lapsed and, therefore, the show cause notice is belated in terms of Section 110 of the Customs Act, 1962. Ld. Counsel further submits that the show cause notice was sent by the Customs Department only on 28th January, 2025 and was received by the Petitioner only on 6th February, 2025.

7. The stand of the Petitioner is that since the show cause notice was not served prior to the expiry of the six months' period, the goods are liable to be released and the proceedings are liable to be quashed.

8. Issue notice. Mr. Aditya Singla, Id. counsel accepts notice on behalf of the Respondent.

9. The date of the show cause notice is 17th January, 2025. The time prescribed under Section 110 of the Customs Act, 1962, is a period of six months subject to complying with the formalities. The Department is entitled to obtain a further extension of six months in terms of Section 110(5) of the Customs Act, if needed.

10. The show cause notice is dated 17th January, 2025 and is, therefore, within the six months period. The question as to whether the same was delivered to the Petitioner within the prescribed period or not or whether the extension was obtained or not, would be a question of fact.



11. The Petitioner may file a reply to the said show cause notice and the Adjudicating Authority shall consider the same. Personal hearing shall also be provided, if sought.

12. Ld. Counsel for the Petitioner also raises an issue that these are phones which may completely get outdated by the time the proceedings are concluded.

13. Considering this position, the Petitioner is free to approach the Adjudicating Authority for provisional release of goods, in accordance with law.

14. The Adjudicating Authority shall endeavour to complete the final adjudication within a period of three months.

15. The present petition is disposed of. The pending application(s), if any, also stand disposed of.

PRATHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

MARCH 20, 2025
dj/ck