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

\+ **W.P.(C) 3024/2025**

AKASH MALIK .....Petitioner

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

versus

COMMISSIONER OF CUSTOMS NEW DELHI .....Respondent

Through: Mr. Harpreet Singh, Senior Standing Counsel with Ms. Suhani Mathur and Mr. Jai Ahuja, Advocates.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

O R D E R

% 10.03.2025

1. This hearing has been done through hybrid mode.

CM APPL. 14309/2025 (for exemption)

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

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3. The present petition has been filed by the Petitioner under Article 226 of the Constitution of India, seeking return of the goods seized by the Respondent/Department.

4. The Petitioner, who is a resident of Rohtak, Haryana, was found in possession of 5 iPhone 13 Pro, 128 GB mobile 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 was issued on 17th January, 2025.

6. Ld. Counsel for the Petitioner submits that the six month period had 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 on 28th January, 2025 and was received by the Petitioner only on 30th January, 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. Harpreet Singh, ld. Senior Standing Counsel is present in Court and is requested to accept notice on behalf of the Respondent.

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

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

11. 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. Considering this position, the Petitioner is free to approach the Adjudicating Authority for provisional release of goods, in accordance with law. The Adjudicating Authority shall endeavour to complete the adjudication within a period of three months.

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

PRATHIBA M. SINGH, J

RAJNEESH KUMAR GUPTA, J

MARCH 10, 2025/*nd/ck*