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

\+ **W.P.(C) 3045/2025**

M/S FONE O CLOCK, THROUGH ITS PARTNER, SH. PARAS SAREEN .....Petitioner

Through: Mr. Vikas Sareen, Mr. Akhil Krishan Maggu, Mr. Abhinav Sharma and Mr.Ayish Mittal, Advocates.

versus

COMMISSIONER OF CUSTOMS-PREVENTIVE, NEW CUSTOM HOUSE NEW DELHI & ANR. .....Respondents

Through: Mr. Aditya Singla, SSC CBIC, Ms. Arya Suresh Nair, Advocates.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

O R D E R

% **11.03.2025**

1. This hearing has been done through hybrid mode.

CM APPL. 14452/2025 (for exemption)

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

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3. This is a petition filed under Article 226 and 227 of the Constitution of India *inter alia* seeking quashing of the impugned letter bearing no. F. No. GEN/INV/OTH/517/2024-Gr-1 O/o Pr Commr-Cus-Prev-Delhi/1567 dated 17th February, 2025 issued by Respondent No.2 – Deputy Commissioner of Customs (Preventive). By the said communication the prayer of the Petitioner for provisional release of the goods of the Petitioner has been rejected.

4. The background of this case is that the Petitioner claims to be a retailer selling second hand and new electronic goods, including mobile phones, etc. A raid was conducted in his premises on 17th October, 2024 and a large quantity of mobile phones of foreign origin, etc., were seized by the Customs

Department.

5. According to the Petitioner, he was not the importer of these goods and had purchased it from the open market. Summons were issued to the Petitioner and certain replies were filed. When the Petitioner sought provisional release of the said goods, the same was rejected *vide* the impugned letter.

6. Mr. Maggu, ld. Counsel for the Petitioner submits that these are not new goods and that they are second hand products. It is also submitted that since these goods are purchased from the open market, the import documents may not be available with the Petitioner. Ld. Counsel further submits that the Customs Department ought to provisionally assess these goods, even if the import documents are not furnished.

7. Mr. Singla, ld. SCC for the Respondents appears on advance notice and submits that the Petitioner ought to approach the department and submit all the necessary documents.

8. The Court has considered the matter. A perusal of the repeated replies filed by the Petitioner with the Customs Department shows that there is not a single document which shows the manner in which the goods have been imported or the manner in which the Petitioner has purchased these goods. The *panchnama* also reveals the list of goods, which show that the products are latest models of Apple iPhones, Apple Watches, Samsung Galaxy phones, Google Pixel phones etc., The countries of origin of the said goods *i.e.,* Mexico, Taiwan, China, Japan, United States of America, Hong Kong, Vietnam and Korea are also mentioned in the *panchnama.*

9. In the absence of any justification as to how the Petitioner came into possession of these goods, the impugned communication would not be liable

to be interfered with. The Petitioner is, however, free to approach the Customs Department for provisional assessment of the subject goods which the Customs shall deal with in accordance with law.

10. Considering that these are mobile phones and the same would get outdated if provisional assessment is not concluded in a timely manner, if the Petitioner approaches the Department, the same shall be done within a period of thirty days, after the request is made.

11. The petition is disposed of. Pending application(s), if any, also stands disposed of.

PRATHIBA M. SINGH, J

RAJNEESH KUMAR GUPTA, J

MARCH 11, 2025/*nd/ck*