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

Date of decision: 21st May, 2025

\+ **W.P.(C) 4851/2025**

JASVINDER KAUR .....Petitioner

Through: Mr. Naveen Malhotra & Mr. Ritvik Malhotra, Advs. (M; 9990899563)

versus

COMMISSIONER OF CUSTOMS (APPEAL) NEW CUSTOM HOISE, NEAR IGI AIRPORT NEW DELHI AND ANR .....Respondents

Through: Mr. Shubham Tyagi, SSC, CBIC with Ms. Navruti Ojha, Adv. (M: 9650049869)

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

2. The present petition has been filed on behalf of the Petitioner - Ms. Jasvinder Kaur under Article 226 of the Constitution of India, *inter alia,* seeking issuance of an appropriate writ directing the Respondent No. 1 - Commissioner of Customs (Appeal), Customs House, IGI Airport to decide the appeal filed by the Petitioner assailing the Order-in-Original bearing no. 107/ADJ/2021 dated 31st March 2021 passed by the Respondent No.2 - Joint Commissioner of Customs, Terminal-3, IGI Airport.

3. According to the Petitioner, she is a Canadian citizen, who arrived in India from Dubai on 18th August, 2019. The Petitioner, who is also a senior

citizen, while travelling from Dubai to India was wearing 14 gold bangles weighing 1110 grams. The said bangles are stated to belong to the Petitioner's mother-in-law. Further, the same are stated to be very old bangles, gifted to the Petitioner by the mother-in-law. Photographs showing the Petitioner wearing the said bangles have also been placed on record.

4. It is the case of the Petitioner that the said bangles were seized by the Customs Authority on 18th August, 2019. A detention receipt bearing no. 46624 dated 18th August 2019 was also issued by the Customs Department for the said seizure. A Show Cause Notice was issued on 9th October, 2019 *(hereinafter, the 'Show Cause Notice')* and pursuant to the same, the Order-in-Original was passed on 31st March 2021 directing the absolute confiscation of bangles in the following terms.

> *"I order **absolute confiscation of the seized Fourteen (14) Gold Bangles totally weighing 1110 Grams** valued at Rs. 38,44,119/- (Rupees Thirty Eight Lakhs Forty Four Thousand One Hundred and Nineteen only) which was imported by Noticee Ms. Jasvinder Kaur (D.O.B-13.06.1975) D/o Sh. Surjit Singh Sachdeva and W/o Sh. Jasmeet Singh Bhatia, under Section 111(j), 111(1), 111(m) of the Customs Act, 1962;"*

5. On the last date of hearing, *i.e.,* 17th April, 2025 ld. Counsel for the Petitioner submitted that a personal hearing was granted to the Petitioner, during which, certain adjournments were sought. Further, it was also pointed out by the ld. Counsel that the date of the impugned order is 31st March, 2021 whereas hearing notices were given for 2nd April, 2021 , 5th April, 2021 and 6th April, 2021. This would show that the impugned Order-in-Original was passed in a pre-decided manner.

6. The Petitioner has appealed against this Order-in-Original before the

Respondent No.1 on 25th June, 2021.

7. Further, on 17th April, 2025, when the matter was taken up for hearing, it was submitted by Mr. Malhotra, ld. Counsel for the Petitioner that the hearing notice has now been received and the hearing has been fixed for 21st April, 2025.

8. The Court then, on 17th April, 2025, recorded that such a long gap in passing of the Order-in-Original and fixing of personal hearing shall, that too in a case of seizure of jewellery of a foreign resident, would be completely unacceptable. The relevant portion of the said order is extracted hereunder for ready reference:

> *"8. Today, when the Petition was taken up for hearing, Mr. Malhotra, id. Counsel for the Petitioner submits that the hearing notice has now been received and the hearing has been fixed for 21st April, 2025.*
> *9. Such a long gap in passing of the Order-in-Original and fixing of personal hearing shall, that too in a case of seizure of jewellery of a foreign resident, would be completely unacceptable.*
> *10. Since the Petitioner is a foreign citizen and the gold bangles are personal effects, the same would be fully exempted under the Baggage Rules, 2016 as well, in terms of the decision of the Supreme Court in Directorate of Revenue Intelligence v. Pushpa Lekhumal Tolani, (2017) 16 SSC 93."*

9. On the last date of hearing after considering the submissions made by the parties, the Court observed that the appeal ought to be heard at an early date.

10. Today, the matter has been taken up for hearing. Mr. Tyagi, ld. Counsel informs the Court that the Commissionerate Appeals has passed the final

order dated 14th May, 2025 in this matter. The operative portion of the said order reads as under:

> *"9.0 In light of discussions and findings as above, I allow the appeal partially against OIO No. 107/ADJ/2021 dated 19.04.2021 passed by the Joint Commissioner of Customs, T-3, IGI Airport, New Delhi and impugned goods i.e. "Fourteen (14) gold Bangles having purity 995 total weighing 1110 grams valued at Rs.38,44,119/-" is allowed to be released to the appellant/authorized person on payment of redemption fine of Rs.3,80,000/-(Rupees Three Lakh Eighty Thousand only) under Section 125 of the Customs Act, 1962 along with applicable Customs duty. The penalty on the appellant is reduced to Rs.3,50,000/- (Rupees Three Lakh Fifty Thousand Only) to be imposed under Section 112(a) & 112(b) of the Customs Act, 1962. The Appeal is disposed off with such modifications and consequential relief as above."*

11. As can be seen from the above, the Petitioner has been permitted to seek release of the goods, subject to payment of redemption fine of Rs.3,80,000/-, applicable customs duties and penalty of Rs. 3,50,000/-.

12. Ld. Counsel for the Petitioner submits that the Petitioner is willing to undertake to re-export of the goods as the Petitioner is a Canadian national.

13. Accordingly, the custom duty is waived in the present case. The Petitioner shall pay the redemption fine and the penalty of Rs.3,80,000/- and Rs.3,50,000/- respectively. Subject to the said payment, the gold items shall be released to the Petitioner.

14. The Petitioner may either appear in person or through authorised signatory. After verifying credentials, the release shall be effected within a period of ten days from today.

15. In the facts of this case, since re-export is being agreed to by the

Petitioner, no storage charges shall be collected.

16. The petition is disposed of in these terms. Pending application(s), if any, also stand disposed of.

PRATHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

MAY 21, 2025
dj/rks