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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 5368/2025**

CHAKSHU GARG

.....Petitioner

Through: Mr. Viraat Tripathi, Mr. Ashish Panday, Mr. Ajay Singh, Mr. Akshat Raghuvanshi & Mr. Pushpank Pandey, Advs.

versus

COMMISSIONER OF CUSTOMS

.....Respondent

Through: Mr. Atul Tripathi, SSC, CBIC with Mr. Shubham Mishra, Adv.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RAJNEESH KUMAR GUPTA

ORDER

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06.05.2025

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner under Articles 226 and 227 of the Constitution of India, *inter alia*, challenging the impugned Order-in-Original dated 6th March, 2025, passed by the Additional Commissioner of Customs, IGI Airport, New Delhi.
3. The Petitioner is an UAE resident, having resident permit bearing no. 784-1993-7096546-1. The Petitioner was travelling from Dubai to Delhi on 3rd March, 2024 by Flight SG-12, when he was intercepted and the following items were detained (hereinafter collectively "*the detained goods*"):
 1. One Yellow Metal Kada of 50 gms.
 2. One Yellow Metal Chain of 99 gms.
 3. Three iPhone 15 Pro 128 GB variant.
4. After the same was detained, the appraisalment was done and the assessable value of the detained goods was Rs.10,39,144/-.



5. It is the case of the Petitioner that no Show Cause Notice was issued and no personal hearing was also granted to the Petitioner prior to passing of the impugned order.

6. In terms of the impugned order, the following has been directed by the Adjudicating Authority:

“14. In view of the foregoing, I pass the following order:

i) I deny the 'Free Allowance' if any, admissible to the Pax Chakshu Garg for not declaring the detained goods to the Proper Officer at Red Channel as well to the Customs Officer at Green Channel who intercepted him and recovered the detained goods from him.

ii) I declare the passenger, Chakshu Garg an "ineligible Passenger" for the purpose of the Notification No. 50/2017-Cus dated 30.06.2017 (as amended) read with Baggage Rules, 2016 (as amended).

iii) I order Absolute confiscation of "One gold strip bent in kada shape purity 999 of 50 grams & one gold chain in broken pieces purity 999 of 99 grams (collective weight 149 grams and its collective value at Rs.10,39,144/-)" detained vide DR No. DR/INDEL4/26.04.2024/00428 dated 26.04.2024 under Section 111(d), 111(j), 111(l) & 111(m) of the Customs Act, 1962.

iv) I order confiscation of the above said detained goods i.e. "Three I phone 15 Pro (128 GB) having collective value at Rs. 2,48,006/-" detained vide DR No. DR/INDEL4/26.04;2024/004281 dated 26.04.2024, under Section 111(d), 111(j), 111(l) & 111(m) of the Customs Act, 1962;

V) I give an option to redeem the goods confiscated above on payment of Rs. 32,000/- (Rs. Thirty Two Thousand Only) along with applicable rate of Customs Duty on Tariff Valuation as on the date of detention of seized goods. I allow release of the detained goods within 120 days of issue of this order under Section 125(3) of the Customs Act, 1962). The redemption to be



allowed after the completion of legal formalities in this regard and also fulfillment of any regulatory clearances/ approvals required. The offer of redemption, if accepted, shall be subject to condition that the Passenger shall not dispute the identity and valuation of the goods. The offer of redemption shall cease after 120 days of the receipt of this order.

Vi) I also impose a penalty of Rs. 1,29,000/- (Rs. One Lakh Twenty Nine Thousand Only) on the Pax, Chakshu Garg under Section 112(a) and 112(b) of the Customs Act, 1962.”

7. As per the impugned order, the gold items have been absolutely confiscated. The three iPhones have been permitted to be redeemed by paying Rs. 32,000/- as a redemption fee. However, the prayer for release in this petition is only in respect of the two gold items.

8. It is the submission of the Petitioner that the gold chain and the Kada are personal jewellery/personal effects of the Petitioner. Photographs have been placed on record to establish the same. In fact, the gold chain is stated to have been seized in a broken condition. Moreover, the waiver of Show Cause Notice is itself contrary to law as held by this Court in several cases including in ***Mr Makhinder Chopra vs Commissioner of Customs New Delhi, 2025:DHC:1162-DB.***

9. Under such circumstances, the Petitioner is willing to pay the redemption fine for the iPhones and prays for the gold items to be released.

10. Considering the above, the gold items shall be released to the Petitioner without any storage charges. However, insofar as the iPhones are concerned, the storage charges and redemption fee shall be payable.

11. Let all the detained goods be released within a period of two weeks.



12. Petition is disposed of in these terms. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J.

RAJNEESH KUMAR GUPTA, J.

MAY 6, 2025
Rahul/Msh