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

\+ **W.P.(C) 5501/2025**

MIR FASIL KHURSEED .....Petitioner

Through: Dr. Ashutosh, Ms.Fatima and Mr. Yousuf Karim, Advocates

versus

COMMISSIONER OF CUSTOMS & ANR. .....Respondents

Through: Mr. Aditya Singla, SSC

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

<u>O R D E R</u>

% **29.04.2025**

1. This hearing has been done through hybrid mode.

2. The present petition has been filed by the Petitioner– Mir Fasil Khurseed seeking release of his goods seized *vide* Detention Receipt no. 3142 dated 23rd November, 2023. The release is being sought by the Petitioner in terms of the Order-in-Original No.1140/003142/ 23.11.2023/WH /2023-24 dated 11th January, 2024 *(hereinafter, 'the OIO')* which stands challenged by the Customs Department- Respondent No. 1 *(hereinafter, 'the department')* before the appellate authority *vide* an appeal dated 4th April, 2024.

3. The Petitioner herein, having Indian Passport No. M4631484 and a valid Oman's Resident Card No. 105752029, arrived from Muscat to Delhi at Terminal-3 in flight no. Al-974 on 23rd November, 2023 and opted for the Green Channel.

4. Upon arrival, the Petitioner was intercepted by the Customs Officials and the following goods were seized from the Petitioner:

- *Four yellow metal bars 20g fine gold 999.9 purity, weighing 80 grams and;*

- *One automatic watch " Patek Philippe" with leather strap and steel case*

5. The submission of the Petitioner is that no show cause notice was issued to him with respect to the seizure and the OIO was passed on 11th January, 2024. As per this order, the Petitioner was permitted to redeem the seized goods, subject to fine. The operative portion of the said order is set out below:

> *" ORDER*
> *i) I deny the 'Free Allowance' if any, admissible to the Pax Mr.Mir Fasil Khurseed for not declaring the detained goods to the Proper Officer at Red Channel as well to the Customs Officer at Green Channel who intercepted her and recovered the detained goods from her.*
> *ii) I declare the passenger, Mr.Mir Fasil Khurseed, is an "Inelligible Passenger" for the purpose of the Notification No. 50/2017 Customs dated 30.06.2017 (as amended) read with Baggage Rules, 2016 (as amended).*
> *iii) I order confiscation of the "Four gold bars with engraving PKE made in UAE 20g Fine gold 999.9 having purity 999 weighing 80 valued at Rs.4,46,555/- & One Automatic Watch "PATEK PHILLIPE" with leather strap and steel case valued at 15,000/-collectively valued at Rs. 4,61,555/-" recovered from the Pax Mr. Mir Fasil Khurseed and detained vide DR No. DR/INDEL4/23.11.2023/002446 dt.23.11.2023 under section 11 J(d), 11 1(j) and 111(m) of the Customs Act, 1962.*
> *iv)* ***I give an option to redeem, the goods confiscated, above, on payment of fine of Rs. 55,000/- (Rupees Fifty Five Thousand Only) under Section 125 of the Customs Act, 1962 and allow the same for re-export from India only by the Pax, since the passenger is an Indian National having passport No. M4631484 and a valid Oman's Resident Card. I allow redemption of the detained goods within 120 days of issue of this order under Section125(3) of the Customs Act, 1962). The redemption is allowed after the completion of legal formalities in this regard and also on fulfilment of any***

regulatory clearances/approvals /payments, as 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 this order.

v) I also impose a penalty of Rs.46,000/- (Rupees Forty Six Thousand Only) on the Pax Ms.Mir Fasil Khurseed under Section112(a) and 112(b) of the Customs Act, 1962."

6. This OIO was challenged by the Department in appeal being ***C.No. Airport/05/2024-25 bearing DIN No. 20240474NC0000018305/125*** titled **Asst./Deputy Commissioner of Customs v. Mir Fasil Khurseed** *(hereinafter, 'the appeal')*. Notice was issued in the said appeal and the Petitioner proceeded to file his reply along with an application for early hearing. However, till date the appeal has not been heard and the Petitioner is also being subjected to warehouse charges due to the delay in adjudication of the appeal.

7. Considering the overall facts, this Court is inclined to direct that the appeal shall be heard at the earliest, after giving a personal hearing notice to the Petitioner and the appeal shall be disposed of within a period of 2 months from the date of passing of this order.

8. Given the substantial delay in the adjudication of the appeal, the submissions made by the Petitioner to waive off the warehouse charges shall also be considered by the appellate authority.

9. The petition is disposed of in said terms. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J

RAJNEESH KUMAR GUPTA, J

APRIL 29, 2025/*SV/ss*