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

\+ **W.P.(C) 5628/2025**

TUBA SHAD .....Petitioner

Through: Mr. S.Vijay Kanth, Advocate.

versus

THE COMMISSIONER OF CUSTOMS .....Respondent

Through: Ms. Suhani Mathur, Advocate.

**CORAM:**
**JUSTICE PRATHIBA M. SINGH**
**JUSTICE RAJNEESH KUMAR GUPTA**

**ORDER**

% **30.04.2025**

1. This hearing has been done through hybrid mode.

**CM APPL. 25654/2025 (for exemption)**

2. Allowed, subject to all just exceptions. The application stands disposed of.

**W.P.(C) 5628/2025**

3. The present petition has been filed on behalf of the Petitioner– Tuba Shad under Article 226 of the Constitution of India challenging the Order-In-Original dated 14th January, 2025 bearing no. 2165/004918/11.08.2024/WH/2024-25 *(hereinafter, 'the impugned order')* passed by the Office of Commissioner of Customs.

4. The case of the Petitioner herein is that she is an Indian citizen and was travelling from Jeddah, Saudi Arabia to Delhi on 11th August, 2024. Upon her arrival at the IGI Airport, Terminal-3, the Petitioner was detained by the Customs Officials.

5. Upon such detention, the Petitioner's gold articles, i.e., three gold bangles weighing 50 grams each were seized. The same were detained *vide*

detention receipt number 4918 dated 11th August, 2024 and the appraisement of the articles also took place before the Petitioner.

6. The Petitioner appears to have signed a standard waiver of show cause and personal hearing due to which neither the show cause notice was issued upon her, nor was a personal hearing notice sent to her.

7. Subsequently, the impugned order has been passed, directing absolute confiscation of all the three gold articles of the Petitioner.

8. Mr. S.Vijay Kanth, ld. Counsel for the Petitioner submits that the Petitioner is 20 years old and was recently married. The three gold bangles which have been seized from the Petitioner were given as gifts during marriage. Further, the Petitioner had gone to Saudi Arabia with her husband for performing a religious ceremony– Umrah. Relevant portion of the petition is extracted herein below:

> *"2. That the Petitioner is a housewife and a law-abiding citizen of lndia. That the Petitioner along with her Husband went to Saudi Arab for Umrah and returned on 11.08.2024.*
> *7. That it is pertinent to mention that the jewelry detained by the Respondent from the Petitioner was her personal jewelry. That the Petitioner was given the said jewelry as Hiba (gift) by her parents in her*
> *marriage. That the said jewelry carries significant value for the Petitioner as it is a reminder of her parents love and devotion towards her. That the Petitioner regularly wears the said jewelry on important occasions or festivals. Photographs of the Petitioner wearing the said jewelry is being annexed herewith as Annexure- P3."*

9. Clearly, a perusal of the photographs filed by the Petitioner and the fact that the seized articles are three gold bangles weighing 50 grams each, there remains no doubt in the mind of the Court that the same were personal effects

of the Petitioner.

10. Moreover, in the case of ***Mr Makhinder Chopra vs. Commissioner of Customs, New Delhi, 2025:DHC-1162-DB*** and ***Amit Kumar v. The Commissioner of Customs, 2025:DHC:751-DB*** this Court has discussed various issues arising in such cases where the goods have been detained by the Customs Department, including the issue of personal jewellery being part of personal effects under the Baggage Rules, 2016 and the invalidity of the waiver of show cause notice and personal hearing by way of a pre-printed waiver form. The relevant extracts of the said decisions are as under:

> ***i. Mr Makhinder Chopra vs. Commissioner of Customs, New Delhi, 2025:DHC-1162-DB***
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> *"17. A conspectus of the above decisions and provisions would lead to the conclusion that* ***jewellery that is bona fide in personal use by the tourist would not be excluded from the ambit of personal effects as defined under the Baggage Rules.*** *Further, the Department is required to make a distinction between 'jewellery' and 'personal jewellery' while considering seizure of items for being in violation of the Baggage Rules.*
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> *xxx xxx xxx*
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> *34. Since, the Court has made clear that* ***the practice of making tourists sign undertaking in a standard form waiving the show cause notice and personal hearing is contrary to the provisions of Section 124 of the Act,*** *hereinafter, the Customs Department is directed to discontinue the said practice. The Customs Department is expected to follow the principles of natural justice in each case where goods are confiscated in terms of Section 124 of the Act."*

***ii. Amit Kumar v. The Commissioner of Customs, 2025:DHC:751-DB***

*"19. **This Court is of the opinion that the printed waiver of SCN and the printed statement made in the request for release of goods cannot be considered or deemed to be an oral SCN, in compliance with Section 124.** The SCN in the present case is accordingly deemed to have not been issued and thus the detention itself would be contrary to law. The order passed in original without issuance of SCN and without hearing the Petitioner, is not sustainable in law. The Order-in-Original dated 29th November, 2024 is accordingly set-aside"*

11. Considering the fact that the gold bangles seized from the Petitioner are merely personal effects of the Petitioner, in the opinion of this Court, the detention itself would be contrary to law.

12. Accordingly, the detained articles of the Petitioner are directed to be released within four weeks. The impugned order is thus set aside. Storage charges shall, however, be paid by the Petitioner.

13. 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 30, 2025**
*v/ss*