



\$~43

* **IN THE HIGH COURT OF DELHI AT NEW DELHI****Date of Decision: 10th September, 2025**

+

W.P.(C) 7794/2025**SARTHAK GROVER**

.....Petitioner

Through: Mr. Harsh Trikha, Adv

versus

COMMISSIONER OF CUSTOMS & ANR.

.....Respondents

Through: Ms. Pooja Bhaskar, SPP for Customs.

CORAM:**JUSTICE PRATHIBA M. SINGH****JUSTICE SHAIL JAIN****Prathiba M. Singh, J. (Oral)**

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner, *inter alia*, seeking release of one gold *kada* of the Petitioner, weighing 51 grams, seized by the Customs Department *vide* Detention Receipt dated 21st May 2024.
3. The brief facts of the case are that the Petitioner is an Indian passport holder who had travelled to India on 21st May, 2024. Upon his arrival at the Indira Gandhi International Airport, New Delhi, the Petitioner was intercepted by the Customs Department and the gold *kada* (hereinafter "*the seized jewellery*") of the Petitioner was seized. It is the case of the Petitioner that no appraisalment of the seized jewellery was done on the ground of paucity of time.
4. The Petitioner is aggrieved by the fact that no Show Cause Notice has been issued till date and the seized jewellery has still not been released by the Customs Department. It is also stated that the seized jewellery was personal



jewellery of the Petitioner and thus should be released in terms of the Baggage Rules, 2016.

5. Ld. Counsel for the Respondent has placed on record a short affidavit stating that the Petitioner had already waived the Show Cause Notice and the personal hearing.

6. Heard the ld. Counsels for the parties. The Court has also perused the document placed on record. It is now the settled legal position as per various decisions of this Court, including in ***W.P (C) 15973/2024*** titled ***Amit Kumar v The Commissioner of Customs***, that a personal hearing is mandatory in such cases and pre-printed SCN waiver would not be tenable. The relevant portion of ***Amit Kumar*** (*supra*) is set out below:-

“15. A perusal of Section 124 of the Act would show that even after an oral show cause notice is given, the authority has the discretion to issue supplementary notice under circumstances which may be prescribed. For ready reference, Section 124 of the Act is set out below:- [...]

16. A perusal of Section 124 of the Act along with the alleged waiver which is relied upon would show that the oral SCN cannot be deemed to have been served in this manner as is being alleged by the Department. If an oral SCN waiver has to be agreed to by the person concerned, the same ought to be in the form of a proper declaration, consciously signed by the person concerned. Even then, an opportunity of hearing ought to be afforded, inasmuch as, the person concerned cannot be condemned unheard in these matters. Printed waivers of this nature would fundamentally violate rights of persons who are affected. Natural justice is not merely lip-service. It has to be given effect and complied with in letter and spirit.



17. *The three-pronged waiver which the form contains is not even decipherable or comprehensible to the common man. Apart from agreeing as per the said form that the oral SCN has been served, the person affected has also waived a right for personal hearing. Such a form in fact shocks the conscience of the Court, that too in cases of the present nature where travellers/tourists are made to run from pillar to post for seeking release of detained goods.*

[...]

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.”*

7. Further, once the goods are detained, it is mandatory to issue a show cause notice and afford a hearing to the Petitioner. The time prescribed under Section 110 of the Customs Act, 1962, is a period of six months and subject to complying with the formalities, a further extension for a period of six months can be taken by the Customs Department for issuing the show cause notice. In this case, the one year period itself has elapsed, as the detention took place on 21st May, 2024, thus, no show cause notice can be issued at this stage. The detention is therefore impermissible.



2025:DHC:7961-DB



8. Considering that the seized jewellery of the Petitioner is only weighing 51 grams, and is a personal effect of the Petitioner, the same is directed to be released by the Customs Department.
9. Considering the facts of the case, only 50% of the warehousing charges as per the charges applicable on the date of detention shall be collected from the Petitioner. No customs duty, fine or penalty shall be collected from the Petitioner.
10. The present petition stands disposed of in the above terms. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

SHAIL JAIN
JUDGE

SEPTEMBER 10, 2025
sk/msh