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

\+ **W.P.(C) 9071/2025**

ASHISH JAIN .....Petitioner

Through: Dr. Ashutosh, Ms. Fatima Bano & Mr. Parvej Hassan, Advs.

versus

COMMISSIONER OF CUSTOMS .....Respondent

Through: Mr. Aakarsh Srivastava, SCC with Mr. Anand Pandey, Adv.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

O R D E R

% 04.07.2025

1. This hearing has been done through hybrid mode.

2. The present petition has been filed under Articles 226 and 227 of the Constitution of India seeking quashing of the Order-in-Original dated 24th January, 2024 and Order-in-Appeal dated 28th May, 2025.

3. The brief background of the present case is that the Petitioner had travelled from Dubai to Delhi on 2nd January, 2024 and upon his arrival, a gold chain weighing 117 grams was seized/detained by the Customs Department *vide* Detention Receipt No. 3455 dated 3rd January, 2024 . The case of the Petitioner is that the Petitioner was wearing the said gold chain and it is his *personal effect* which ought not to have been detained in terms of Rule 3 of Baggage Rule, 2016.

4. Further it is also submitted that after the detention, no Show Cause Notice (hereinafter *'SCN'*) was issued but the Order-in-Original has been passed on 24th January, 2024. As per the said order, the Petitioner has been given the option to redeem the chain. The operative portion of the said order

reads as under:

> *"* ***ORDER***
>
> *i) I deny the 'Free Allowance' if any, admissible to the Pax Mr. Ashish Jain 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.*
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> *ii) I declare the passenger, Mr. Ashish Jain, is an "ineligible Passenger" for the purpose of the Notification No. 50/2017-Customs dated 30.06.2017 (as amended) read with Baggage Rules, 2016 (as amended).*
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> *iii) I order confiscation of "One gold chain having purity 997 weighing 117 grams valued at Rs.7,72,928/-)" recovered from the Pax Mr. Ashish Jain and detained vide DR No. DR/INDEL4/03.01.2024/003455 dt. 03.01.2024 under section 111(d), 111(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.95,000/- (Rupees Ninety five Thousand Only) along-with applicable rate of Customs duty on tariff valuation as on the date of detention of goods. I allow release of the detained goods within 120 days of issue of this order under Section 125(3) of Customs Act, 1962. The redemption is 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 Pax shall not dispute the identity and valuation of the detained goods. The offer of redemption shall cease after 'One Hundred Twenty Days' from date of the receipt of this order;***
>
> *v) I also impose a penalty of Rs.77,000/-(Rupees Seventy Seven Thousand Only) on the Pax Mr. Ashish Jain under section 112 (a) and 112(b) of the Customs Act, 1962."*

5. It is noticed that this order was not challenged by the Petitioner,

however, the Customs Department had preferred an appeal against the said order under Section 128 of the Customs Act, 1962. The appeal was dismissed on 28th May, 2025. Hence the Petitioner has approached the Court *vide* the present petition.

6. The case of the Petitioner is that since no SCN was issued and a standard waiver was relied upon to pass the impugned order dated 24th January, 2024, the same deserves to be quashed.

7. This is opposed by Mr. Srivastava, ld. Senior Standing Counsel on the ground that the Order-in-Original was not challenged by the Petitioner at the relevant point and therefore, he now cannot be allowed to challenge the same today.

8. The Court has considered the matter. The Order-in-Original was passed way back on 24th January, 2024 and one and half years have elapsed since the said time. Therefore, the Petitioner had, in effect, accepted the said Order-in-Original and today cannot seek to resile from the same now.

9. Accordingly, it is directed that Order-in-Original be given effect to by the Customs Department. However, no warehousing charges shall be paid in the facts of this case. The Petitioner shall deposit the fine and duty imposed in terms of the Order-in-Original and within a period of two weeks thereafter, the gold chain shall be released to the Petitioner.

10. Petition is disposed of in these terms. All pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J.

RAJNEESH KUMAR GUPTA, J.

JULY 4, 2025/*Rahul/Ar.*