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

\+ **W.P.(C) 9777/2024**

MOHAMMAD KHALID SIDDIQUI .....Petitioner

Through: Mr. D.S.Chadha and Ms. Prabjyoti K Chadha, Advocates.

versus

UNION OF INDIA AND ANR. .....Respondents

Through: Mr. Anurag Ojha, SSC with Mr. Dipak Raj, Mr. Subham Kumar, Mr. Vipul Kumar and Ms. Garima Kumar, Advocates for R-2.

Mr. Pankaj, Superintendent Officer, IGI Protocol.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

O R D E R

% 21.05.2025

1. This hearing has been done through hybrid mode.

2. The present writ petition has been filed under Article 226 of the Constitution of India, seeking release of the gold of the Petitioner in compliance with the order-in-appeal dated 14th July, 2016. The said gold of the Petitioner was detained by the Customs Department *vide* Detention Receipt No. 53997 dated 30th November, 2013.

3. The case of the Petitioner is that he is an Indian passport holder and has been working and living in Riyadh for several years. It is stated that the Petitioner was travelling from Riyadh to India on 30th November, 2013 and upon arriving in India, he was intercepted by the Customs Department. The Petitioner is stated to have been carrying 5 gold bars weighing 516.64 gms *(hereinafter "the detained goods")*, which were seized by the Customs

Department.

4. It is stated that upon detention, a show cause notice was issued to the Petitioner on 05th May, 2014 and the consequent order-in-original was passed on 29th October, 2015 wherein the detained goods were directed to be confiscated and a penalty was also imposed upon the Petitioner. This order-in-original is stated to have been challenged by the Petitioner in appeal.

5. It is further stated that in the appeal, the Commissioner (Appeals) *vide* order-in-appeal dated 14th July, 2016, granted redemption of the detained goods on the payment of redemption, fine and penalty.

> *"6.7. The impugned goods are not prohibited and are imported as a normal trade goods, albeit, with a sense of trepidation because the government through its concerted efforts, from time to time, has been, able to discourage such import by way of limited import with higher rate of duty and limiting the volume of imports through canalized imports. This is so because the government thinks that the use of gold in any way, hoarding or otherwise is a wasteful exercise, resulting in the resources being blocked for more gainful employment. Herein lies the incentive, to smuggle gold, to plug the gap between irrational demand and scarce supply of the scarce. metal. In, this context the relevance of the Circular No.9/2001-Cus can easily be appreciated which has the objective of discouraging such illegal activity by way of imposing fine and penalty of deterrent effect. In the above context, it can safely be concluded that, gold not being prohibited item, should be allowed redemption ultimately, however the quantum of fine and penalty should be kept sufficiently high so as to serve the purpose of deterrence. Therefore, I hold that the goods can be redeemed upon payment of redemption fine of Rs.5,35,000/- under section 125 of the Act ibid. However penalty imposed under section 112 & 114AA of the Customs Act, 1962 is reduced to Rs. 2,50,000/-, This fine along with the penalty will meet the end of justice and would deter the pax form future like misadventures. Further, the appellant is also liable to pay the*

Customs Duties as applicable. The Ld. Adjudicating authority is hereby directed to convey the specific duty amount to the appellant within 15 days of receipt of this, order."

6. Thereafter, the Petitioner, being aggrieved by the order-in-appeal dated 14th July, 2016, filed a revision application before Revision Authority. The application was decided on 4th September, 2018 wherein the order-in-appeal dated 14th July, 2016 was upheld. Despite this being the position, the grievance of the Petitioner is that the detained goods have not yet been released.

7. The Customs Department is not clear about the status of the detained goods i.e., whether the detained goods have been disposed of or not. Accordingly, in view of the fact that the release of the detained goods have been upheld even by the Revisional Authority, let the order-in-appeal dated 14th July, 2016 be given effect by the Customs Department.

8. Accordingly, the Petitioner is free to contact the following officer at the Customs Department for doing the needful:

Name of the officer: Mr. Pankaj, Superintendent of Customs

Phone No. : 9868255619

9. The release shall be given effect to in terms of the said order within four weeks subject to verification.

10. The Petitioner may collect the detained goods in person or through an Authorised Representative, in which case, the detained goods shall be released after receiving a proper email from the Petitioner or some form of communication that the Petitioner has no objection to the same being released to the concerned Authorised Representative.

11. In case the detained goods have been disposed of, the amount realised

by the Customs Department along with interest from the date of disposal thereof, shall be paid to the Petitioner, as per law.

12. The present petition stands disposed of in said terms. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J

RAJNEESH KUMAR GUPTA, J

MAY 21, 2025
v/ss