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

\+ **W.P.(C) 11522/2025**

DEVINDER SINGH .....Petitioner

Through: Ms. Richa Kumari, Mr. Pawan, Ms. Aarti Gupta, Mr. Aman Asht & Mr. Prashant Chaudhary, Advs.

versus

COMMISSIONER OF CUSTOMS .....Respondent

Through: Mr. Harpreet Singh, SSC with Mr. Jai Ahuja, Mr. Sanidhya Sharma, Mr. Akshay Saxena & Ms. Shivali Saxena, Advs.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

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

% 06.08.2025

1. This hearing has been done through hybrid mode.

2. The present petition has been filed by the Petitioner-Devinder Singh under Article 226 of the Constitution of India, *inter alia*, assailing the detention receipt No. 53431 dated 20th April, 2021, vide which, one gold kada and one gold chain of the Petitioner, weighing 116 grams each, has been detained by the Petitioner.

3. A brief background of the present case is that the Petitioner travelled to Dubai for employment purposes. However, he was under continuous medical treatment following the surgery for Craniopharyngioma. He returned to India within two to three days for urgent medical care and at the time when he came back to India and landed in Delhi, the said goods were seized on 19^{th} / 20^{th} April, 2021. The total weight of the items is 116 grams each.

4. The Petitioner is an Indian citizen. He has placed on record various

medical documents issued by Max Healthcare and other doctors to show his medical condition. He has also placed on record photographs to show that both items were his personal effects under the Baggage Rules, 2016 and the jewellery has been used by the Petitioner for the past several years.

5. It is observed that the goods of the Petitioner were seized on 20th April, 2021. However, no Show Cause Notice has been issued till date. Further, no Order-in-Original has been passed for the last more than four years.

6. Ld. Counsel for the Petitioner submits that the detention of the Petitioner's goods cannot continue. Ld. Counsel for the Respondent submits that the Petitioner wrote two letters dated 29th September, 2021, stating that he is unable to come for appraisement.

7. This Court has already, in the decision, ***Dhiren v. Commissioner of Customs [W.P. (C) 9951/2025]*** dated 16th July, 2025, observed that irrespective of whether the passenger comes for appraisement or not, the same would not stop the issuance of the Show Cause Notice. The relevant portion of the said decision is extracted hereunder:

> *"6. Repeatedly, this Court notices that one of the reasons being taken by the Customs Department for explaining delay or non issuance of SCN is that the Petitioner does not appear for appraisement.*
> *7. It is made clear that non appearance of a passenger for appraisement of detained goods is not a ground for withholding the issuance of an SCN in terms of Section 110 of the Customs Act, 1962.*
> *8. Since no SCN has been issued in this matter, the continued detention would be contrary to law. Let the Respondent seek instructions in this regard."*

8. In any case, under Section 110 of the Customs Act, 1962 without

issuance of a Show Cause Notice, continued detention of goods would be illegal. This principle of law has been upheld in a catena of judgments, as also has been observed recently by this Court in the decision, ***Abhilash Mullentevida v. Commissioner of Customs (2025:DHC:4508-DB),*** wherein it has been held as under:

> *"13. Further, in the present case, the fact that no Show Cause Notice has been issued upon the Petitioner is also not in dispute. This Court, while deciding upon the issue of non-issuance of Show Cause Notice in various cases has held that 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 Department for issuing the show cause notice. In this case, since no show cause notice has been issued till date, the detention is therefore impermissible."*

9. Moreover, this Court is also convinced after seeing the photographs that the gold items are the personal jewellery of the Petitioner.

10. Further, there is no reason for the Court to disbelieve the medical records of the Petitioner which show that he did suffer from serious medical condition at the relevant point in time, necessitating his travel back to India from Dubai.

11. The continued detention is no longer tenable in view of non-issuance of Show Cause Notice.

12. Accordingly, the goods are directed to be released. In the facts and circumstances of this case, considering the medical issues faced by the

Petitioner, the warehousing charges are waived.

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

PRATHIBA M. SINGH, J.

SHAIL JAIN, J.

AUGUST 6, 2025
Rahul/rks