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

\+ **W.P.(C) 12976/2025**

KANIYA SINGH VIG .....Petitioner

Through: Mr. Naveen Malhotra & Mr. Ritvik Malhotra, Advs.

versus

COMMISSIONER OF CUSTOMS GENERAL AND ANR .....Respondents

Through: Mr. Gibran Naushad, SSC with Mr. Harsh Singhal & Mr. Suraj Shekhar Singh, Advs.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

O R D E R

% **26.08.2025**

1. This hearing has been done through hybrid mode.

CM APPL. 53078/2025 (for exemption)

2. Allowed, subject to all just exceptions. Application is disposed of.

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3. The present petition has been filed by the Petitioner –Kaniya Singh Vig challenging the impugned order dated 30th June, 2025 passed by the Additional Commissioner of Customs *(hereinafter, 'the adjudicating authority')* whereby absolute confiscation has been directed of the *gold kada* of the Petitioner. A penalty of Rs.1 lakh has also been imposed on the Petitioner in the following terms:

> *"ORDER*
> *i) I deny the free allowance as admissible to the Noticee for his various acts of commission & omission as discussed above;*
> *ii) I order for **absolute confiscation** of the above said seized **gold kada having the purity of 24 karat,***

> *weighing **350 Grams having tariff value of Rs.17,98,713/- (Rupees Seventeen Lakh Ninety-Eight Thousand Seven Hundred and Thirteen only**) recovered from Noticee, under Panchnama dated 23.03.2023, under section 111(d), 111(i), 111(j) 111(1), 111(m) & 111(o) of the Customs Act, 1962.*
> *iii) I impose a **penalty of Rs.1,80,000/- (Rupees One Lakh Eighty Thousand only**) under Section 112(a) & 112(b) and Section 114AA of the Customs Act, 1962 on the Noticee, Mr. Kaniya Singh Vig in respect of gold smuggled and recovered from him;"*

4. The Petitioner, a British national, arrived in Delhi on 22nd March, 2023. He was wearing a *gold kada* weighing 350 grams, which according to the Petitioner, is his personal effect. The said *gold kada* was detained vide detention receipt dated 22nd March, 2023.

5. Upon summons being issued upon the Petitioner, he produced an invoice of one *JRS Jewellers LTD, London* to show that the *gold kada* is his *bonafide* personal effect. However, the same was considered by the Adjudicating Authority and the impugned order has been passed.

6. Mr. Malhotra, ld. Counsel appearing for the Petitioner submits that the Adjudicating Authority, while passing the impugned order, has not considered the decisions of the Supreme Court and this Court in ***Directorate Of Revenue Intelligence vs Ms. Pushpa Lekhumal Tolani, 2017 (16) SCC 93*** and ***Mr. Makhinder Chopra Vs. Commissioner of Customs*, 2025 DHC 1162 (DB).**

7. This Court notes with some concern that the Adjudicating Authority, in the impugned order, takes a position that the judgment in ***Directorate Of Revenue Intelligence vs Ms. Pushpa Lekhumal Tolani, 2017 (16) SCC 93*** is not to be considered as a precedent and the same does not bind them. The

relevant paragraph of the impugned order is set out below:

> *"7.4.1 The counsel/advocate for the appellant placed reliance on various judgment of different Court's and Tribunal. I further studied the cited judgment and find that the above cited cases are not applicable in the instant matter. As mentioned above against para 7.4(c) (conclusions),* ***the judgement in DRI vs Pushpa Lekhumal Tolani (2017 16 CC 93) is confined only to the disposal of this appeal & therefore does not bind the adjudicating authority to consider it as a precedence****. In Makhinder Chopra judgement, the facts of the matter are different than in the present case. In this case, a Show Cause Notice had been issued to the Noticee & personal hearing was duly held. The seized gold in this case cannot be considered as "personal jewellery" of the Noticee due to reasons already mentioned above."*

8. While this Court does not approve the above findings of the Adjudicating Authority, since the said impugned order is an appealable order, this Court deems it appropriate to direct the Petitioner to file an appeal against the same.

9. Thus, the Petitioner is permitted to file an appeal by 15^{th} September, 2025. Upon the appeal being filed, it shall be adjudicated within a period of three months by the appellate authority.

10. The Petitioner further submits that he is also willing to re-export the *gold kada*. While deciding the appeal, the appellate authority shall take into consideration this plea of the Petitioner. The Petitioner relies upon various decisions passed by the Supreme Court and this Court, which are set out below:

- ***2017 16 SCC 93 ORI vs Pushpa Lekhumal Tolani***
- ***Writ petition civil No.- 6855/2023 Nathan***

Narayansamy vs Commissioner of customs decided on 19.05.2023

- *Writ petition civil No- 3612/2024 titled Saba Simran Vs Union of India pronounced on 27.11.2024*
- *Writ petition civil No.- 16113/2024 titled Farida Aliyeva vs Commissioner of customs date of decision 10.12.2024*
- *Writ petition civil No.- 10482/2024 titled Anjali Pandey Vs Union of India date of decision 22.01.2025*
- *Writ petition civil no.- 5136/2025 Dalvinder Singh Sudan vs Commissioner of customs decided on 23.04.2025*
- *Writ petition civil no.- 3520/2025 Swati Vijay Salunke vs Commissioner of customs decided on 21.03.2025*
- *Writ petition civil no.- 2049/2025 Makhinder Chopr vs Commissioner of customs decided on 19.02.2025*
- *Writ petition civil no.- 4851/2025 JAsvinder Kaur vs Commissioner of customs decided on 21.05.2025*

The above judgements shall be considered and the principles shall be borne in mind while deciding the Appeal.

11. The petition is disposed of in the above terms. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J.

SHAIL JAIN, J.

AUGUST 26, 2025/*pd/ss*