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

\+ **W.P.(C) 15397/2024 & CM APPL. 64548/2024**

UBAID KHAN .....Petitioner

Through: Mr. Fareed Uddin, Adv.

versus

COMMISSIONER OF CUSTOMS AND ORS .....Respondents

Through: Mr. Siddharth Panda, Mr. Ritank Kumar & Mr. Anil Pandey, Advs.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

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

% 29.07.2025

1. This hearing has been done through hybrid mode.

2. The present petition has been filed on behalf of the Petitioner-Ubaid Khan under Article 226 of the Constitution of India *inter alia* seeking a direction to the Respondents to comply with the Order-in-Original dated 6th March, 2020 passed by the Additional Commissioner of Customs, IGI Airport, New Delhi as modified by the Order-in-Appeal dated 18th July, 2022 passed by the Commissioner of Customs (Appeal), New Delhi.

3. The brief background of this case is that the Petitioner had arrived in IGI airport from Dubai on 4th February, 2019 in Flight No. EK 510 with various articles upon which he was intercepted by the Respondent-Department. Pursuant to such interception, 2 gold bars weighing 1000 grams each were detained from the Petitioner on the same day. Consequently a Show Cause Notice dated 24th July, 2019 was issued to the Petitioner which later

led to the passing of an Order in Original dated 6th March, 2020. The Additional Commissioner *vide* the Order in Original had *inter alia* directed the confiscation of the detained gold bars while providing the Petitioner with an option to redeem the same subject to payment of a redemption fine of ₹ 12,00,000 along with the Basic Customs Duty and a penalty of ₹ 12,00,000. The operative portion of the said order dated 6th March 2020, reads as under:

> *"(i) I deny the free allowance if any admissible to NOTICEE, Mr. Ubaid Khan for the various acts of commission & omission.*
> *(ii) I order confiscation of the above said gold total weighing 2000 Gms valued at Rs. 61,09,704/- (Rupees Sixty One Lakh Nine thousand Seven hundred Four only) seized from possession of the NOTICEE, Mr. Ubaid Khan under Section 111(d), 111(i), 111(j), 111(l), 111(m) and 111(o) of the Customs Act, 1962;*
> *(iii) I, give an option to release the seized goods on payment of redemption fine amounting to Rs. 12,00,000/- (Rs. Twelve Lakh only) under Section 125 of Customs Act, 1962 along with payment of applicable Customs duty @ 38.5% of value of seized gold, penalty, other duties, cess and charges as applicable. The redemption to be allowed after 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 Noticee shall not dispute the identity and valuation of goods. The offer of redemption shall cease after 3 (three) months from issuance of order.*
> *(iv) I also impose a penalty of Rs. 12,00,000/- (Rs. Twelve Lakh only) on the NOTICEE, Mr. Ubaid Khan under Section 112 and Section 114AA of the Customs Act, 1962."*

4. The said Order in Original was challenged by the Petitioner by way of an appeal under Section 128 of the Customs Act, 1962. The Appellate

Authority i.e., the Commissioner of Customs (Appeals) *vide* the impugned Order-in-Appeal had partially allowed the appeal by reducing the redemption fine to Rs. 6,10,000/-. The relevant portion of the Order in Appeal, reads as under:

> *"6.0 In view of above discussion and findings, I reject the appeal filed by the Appellant department. I partially allow the appeal of the Appellant/Respondent Sh. Ubaid Khan against and reduce the redemption fine to Rs. 6, 10,000/- under Section 125 of the Customs Act, 1962 along with applicable duty. The penalty under section 112 and 114AA of the Customs Act, 1962 is reduced to Rs. 6,10,000/-. The Appeals are disposed with such modifications and consequential relief as above."*

5. On behalf of the Respondents, it is submitted that the Customs Department has approached the Revisional Authority.

6. It is the grievance of the Petitioner that the Appellate Order in this case dates back to 18^{th} July 2022 and the Revisional Authority has had more than three years to decide the revision petition, however, no decision is stated to have been taken till date. On the last date i.e., 24th April, 2024, it was made clear that if no order was passed by the Revision authority by the next date of hearing the Order in Appeal would be given effect to.

7. Since there is no decision, the Customs is directed to give effect to the Order-in-Appeal passed by the Appellate Authority and the gold shall be released in terms of the said order.

8. Let the present order be brought to the notice of the Commissioner of Customs and the concerned Revisional Authority through the Secretary Department of Revenue, Ministry of Finance, Government of India. Mr. Ojha assures the Court that the same would be properly communicated.

9. The petition is disposed of. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J.

SHAIL JAIN, J.

JULY 29, 2025/*pd/Ar.*