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

Date of decision: 28th October, 2025

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W.P.(C) 16313/2025

VIKRAMJEET MASHI

.....Petitioner

Through: Ms. Richa Kumari, Adv.
versus

COMMISSIONER OF CUSTOMS

.....Respondent

Through: Mr. Gaurav Mani Tripathi, Adv for Mr.
Atul Tripathi, SSC, CBIC.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE SHAIL JAIN

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner under Article 226 of the Constitution of India, *inter alia*, challenging the detention of one silver coated gold *kada* weighing 255 grams (*hereinafter*, 'gold *kada*'), which was detained by the Customs Department *vide* detention receipt dated 14th August, 2022.
3. The case of the Petitioner is that he is an Indian passport holder, who was travelling from Dubai. Upon his arrival at the Indira Gandhi International Airport, New Delhi, he was intercepted by the concerned officials of the Customs Department, and the gold *kada* was detained from his possession. The said detention is being challenged on the ground that no Show Cause Notice has been issued to the Petitioner.
4. Ms. Richa Kumari, Id. Counsel for the Petitioner has vehemently



argued that, since no Show Cause Notice has been issued to the Petitioner, the gold *kada* deserves to be released, in terms of judgment of the Supreme Court in *Civil Appeal No. 3489/2024* titled *Union of India & Anr. v. Jatin Ahuja*, dated 11th September, 2025. In *Union of India v. Jatin Ahuja (Supra)* the Supreme Court has directed as under:

“17. It is difficult for us also to subscribe to the views expressed by the Bombay High Court in Jayant Hansraj Shah’s case (supra). We are of the view that the only power that has been conferred upon the Revenue to extend the time period is in accordance with the first proviso to Sub-section (2) of Section 110 of the Act, 1962. The Delhi High Court is right in saying that any effort to say that the release under Section 110A of the Act, 1962 would extinguish the operation of the consequence of not issuing show-cause notice within the statutory period spelt out in Section 110(2) would be contrary to the plain meaning and intendment of the statute.

18. The Delhi High Court has done well to explain that this is so because Section 110A, is by way of an interim order, enabling release of goods like fast moving or perishable etc. The existence of such power does not, in any way, impede or limit the operation of the mandatory provision of Section 110(2).

19. In the case in hand, indisputably the car was seized under sub-section (1) and furthermore no notice in respect of the goods seized was given under clause (a) of section 124 of the said Act within six months of the seizure. The consequence, therefore, in such a case is that the goods shall be returned to the person from whose possession they were seized. The first proviso to sub-section (2) of section 110 of the said Act, however, provides that the Principal



Commissioner of Customs or Commissioner of Customs may, for reasons to be recorded in writing, extend the six months' period by a period not exceeding six months and inform the person from whom such goods were seized before the expiry of the period so specified. The proviso therefore contemplates that the period of six months mentioned in sub-section (2) of section 110 of the said Act can be extended by the higher authority for a further period not exceeding six months, for reasons to be recorded in writing. The proviso also requires the higher authority to inform this to the person from whom such goods were seized before the expiry of the period of six months mentioned in sub-section (2) of section 110. We find that in respect of the seized car, there is neither any notice under clause (a) of section 124 issued to the respondent within six months of the seizure nor the period of six months ever came to be extended for a further period of six months. In the absence of there being any notice as required by the first proviso even within the extended period upto one year, the consequence that ought to follow is release of the seized car.

[...]

24. The appeals before us are all anterior in time to the coming into force of the second proviso to Section 110(2) of the Act, 1962. Although, it is not necessary for us to say anything further, yet we may clarify that the time period to issue notice under Clause (a) of Section 124 is prescribed only in sub-section (2) of Section 110 of the Act, 1962. This time period has nothing to do ultimately with the issuance of show-cause notice under Section 124 of the Act, 1962. The two provisions are distinct and they operate in a different field."



5. On the other hand, Mr. Gaurav Mani Tripathi, Id. Counsel appearing on behalf of Mr. Atul Tripathi, Id. SSC for the Respondent, submits that the Petitioner had given a statement under Section 108 of the Customs Act, 1962, that the gold *kada* does not belong to him.

6. Additionally, Id. Counsel for the Respondent submits that an Order-in-Original has also been passed on 28th June, 2023. According to Id. Counsel, the said order, which has been placed before the Court, has directed absolutely confiscation of the gold *kada*.

7. The Court has considered the matter. The statement given by the Petitioner under Section 108 of the Customs Act, 1962 is as under:

*“On being asked I, Vikramjeet Masih (D.O.B-16.10.1991), state that I have appeared before Air Customs Superintendent on 14.08.2022 to tender my statement under Section 108 of the Customs Act, 1962 in respect of above mentioned item recovered from my possession. On being asked, I state that I was intercepted by the Customs officer after I had crossed the Green Channel and during the DFMD and X ray of the baggage, the above said item were recovered from my possession. **On being asked I state that the above mentioned recovered item does not belong to me; that the recovered above item given to me by a Bangaladeshi person known as Dada in the local market in Dhaka (whose real name is not known to me) in lieu of Rs.50,000/-; that I was told that some person would come to my address to collect the above recovered said item; that the item is being carried by me from Dhaka;** that I work as a sales person with local traders in Dhaka and Dubai; that I admit my omission and commission on my part, that I am well aware of the fact that there is Customs duty on import of Commercial Goods on the value above Baggage Allowance in India; that, I intentionally did not declare*



the recovered item; that I will be agreeing with the description, quantity and value to be assessed by the department, and I am ready to pay the Customs duty along with fine and penalty as applicable. I also do not need any Show Cause Notice or personal hearing in the matter. I have tendered my statement true and correct and understood the same is vernacular. I have tendered the above statement without any duress, pressure or threat.”

8. Additionally, Order-in-Original dated 28th June, 2023 clearly records that the Petitioner did not appear after the detention, and the goods have also been absolutely seized. The operative portion of the said order reads as under:

“

Order

*“i) I order **absolute confiscation** of detained goods of the Detention Receipt as detailed in **Annexure -A** to this order under Section 111 of the Customs Act, 1962.*

*ii) I also **impose a penalty** against each respective DR No. equal to the amount, as mentioned in **Column No. 17** of **Annexure -A** to this order under section 112 (a) 112 (b) and section 114AA of the Customs Act, 1962.”*

9. In the aforesaid order, a penalty of Rs 31,632/- has also been imposed upon the Petitioner.

10. Notably, the circumstances in this case are different from the facts of the case in ***Union of India v Jatin Ahuja(Supra)***. In the present case, the Petitioner has himself admitted that the gold *kada* does not belong to him and he has been paid a sum of Rs 50,000/- to carry the same to India. Further, the Petitioner has also admitted that the gold *kada* was given by a Bangladeshi person known as *Dada*, in a local market in Dhaka.



11. These facts would require to be looked into by the Adjudicating Authority or the Appellate Authority in accordance with law.
12. Under these circumstances, since the Order-in-Original dated 28th June, 2023, does not appear to be in the knowledge of the Petitioner, the Petitioner is permitted to file an appeal challenging the said order within a period of two months.
13. If the appeal is filed by the Petitioner within the stipulated time, the same shall be adjudicated in accordance with law.
14. This Court does not deem it appropriate to exercise writ jurisdiction in the facts of this case. If the appeal is filed by the Petitioner, the same shall be decided within a period of four months on merits and shall not be disposed of on the ground of limitation.
15. Accordingly, the present petition is disposed of in above terms. Pending applications, if any, are also disposed of.

**PRATHIBA M. SINGH
JUDGE**

**SHAIL JAIN
JUDGE**

OCTOBER 28, 2025
sk/sm